

**CALIFORNIA COASTAL COMMISSION**

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**W18a**

Appeal Filed: 10/12/00  
Permit Filed: 9/25/01  
180<sup>th</sup> Day permit 3/24/02  
Staff: PE-LB  
Staff Report: 11/1/01  
Commission action. 11/16/01

**REVISED FINDINGS**

**APPEAL NUMBER** A-5-PLV-00-417 (Playa Capital)

**APPLICATION NUMBER:** 5-01-382 (Playa Capital)

**APPLICANT:** Playa Capital Company LLC

**AGENTS:** Catherine Tyrrell, Playa Capital  
Wayne Smith, Psomas Associates

**PROJECT LOCATION:** Culver Boulevard, and adjacent to and south of existing  
Lincoln/Culver ramp, Area C Playa Vista, Los Angeles County

**PROJECT DESCRIPTION:** Construct modified and new ramp connections between Lincoln and Culver Boulevards, widen the southerly half of Culver Boulevard between Lincoln Boulevard and the Marina Freeway to provide an additional eastbound lane, widen and improve grade level connections between Culver Boulevard and Marina Freeway, and install drainage, lighting and landscaping. The project will add 27 to 41 feet of pavement to the 34 to 37 foot wide road, and additional area to the connections to the Marina Freeway, where the finished road may be as much as 104 feet wide. The project will require 23,000 cubic yards cut and fill.

**CHANGE IN DESCRIPTION DE NOVO:** Construct 0.57 acre extended detention/biofiltration basin and restoration area within curve of ramp loop, to capture and treat storm water run off from the widened roads, through detention-induced settling and biofiltration before it drains to Ballona Creek; install additional landscaping along Culver Boulevard and along recently widened portions of Lincoln Boulevard rights-of-way, reroute road so that it does not impinge on wetland areas, grading is reduced to 17,100 yards cut and fill, with 10,100 cubic yards exported.

**DATE OF COMMISSION ACTION:** November 16, 2001

**COMMISSION ACTION:** Approval with special conditions

**COMMISSIONERS ON PREVAILING SIDE (VOTING "YES"):** Commissioners Allgood; Detloff; Hart; McClain-Hill; McCoy; Potter; Soto; Susskind; Rose; Woolley.

**COMMISSIONERS VOTING "NO":** Chairman Wan

**SUMMARY OF COMMISSION ACTION:**

Staff recommends that the Commission adopt the following revised findings in support of the Commission's approval with special conditions of Coastal Development Permit 5-01 - 382 and the companion de novo action on Appeal A-5-PLV-00-417 on November 16,

2001. Coastal Development Permit 5-01-382 and Appeal A-5-PLV-00-417 are two designations for one project. At the Commission hearing on Wednesday, November 14, 2001, Commission staff revised its recommendation (in an addendum) to respond to technical issues raised by the applicant. Changes to the staff report in the addendum were recommended to clarify the intention of the conditions or to correct factual errors. In several cases staff also eliminated inconsistencies or practical difficulties that the applicant suggested could occur in carrying out the conditions. (See Applicant's Letter of November 12, 2000, "Technical corrections to staff reports").

In testimony on Wednesday, November 14, 2001, members of the public announced that on November 2, 2001, a group member had found heliotrope (*Heliotropium curassavicum*), within the area encircled by the current Culver Boulevard Loop Ramp. The Culver Boulevard Loop Ramp is the site of construction proposed in this project. Heliotrope is designated an obligate wetland species (OBL) in the U. S. Fish and Wildlife Service's list of wetland plants. An obligate plant is a plant that is found in wetlands more than 99% of the time that it is found. At the end of the day on November 14, 2001, the Commission continued the item and requested Dr. John Dixon, the Senior Staff Biologist, to visit the site and provide the Commission additional information with respect to the issues that had been raised regarding the site's possible status as a wetland; to determine whether the plant was present, and if it was present, whether the Culver Loop ramp or areas within it should be considered wetlands. The Commission also expressed concern about water quality issues raised by Heal the Bay and the Santa Monica BayKeeper.

On Friday, November 16, the Commission reconvened the hearing on application 5-01-382 and appeal A-5-PLV-00-417. The Commission received written and oral reports from Dr. Dixon, who indicated that the plant was present at several locations. Dr. Dixon stated, "At all sites, upland vegetation comprised more than 50 percent of the dominant species, the soils were sandy and without hydric indicators and there was no evidence of inundation. At P1 (one of the sampled sites) the greatest ground cover was contributed by heliotrope." As indicated by the first clause in the immediately preceding quote, even in the area where heliotrope contributed more ground cover than any other single species (area P1), among the several dominant species present, the number of upland species was greater than the number of hydrophytic species, and therefore there was not a preponderance of hydrophytic vegetation. As for the one wetland-indicator species that was common in area P1, he noted that the obligate designation is probably not appropriate for heliotrope in this region. Thus, given that none of the sites exhibited wetland hydrology, hydric soils or a predominance of wetland species in its vegetation, Dr. Dixon concluded that there are not wetlands at the subject site. (See pages 153, 159, 200-205 and 209 of the November 14, transcript Volume 2; and also pages 5 and 7 of – of the Friday November 16, transcript. See also Revised Findings Exhibit 1, attached at the end of the exhibits.)

At its continued hearing on November 16, 2001, the Commission reviewed additional material provided by the public and also reviewed a letter from the applicant that

suggested specific changes to the recommended special conditions addressing (1) water quality and (2) revegetation. These changes included (1) a change to the water biofiltration basin such that the draw-down time would not be limited to 24 hours, in order to allow enough moisture to support wetlands vegetation (Special Condition 1.A.(2) page 6); (2) removing a requirement to introduce snakes and toads (or any non-native animal) as part of the integrated pest management program (Special Condition 1.A. (6) page 7); (3) adding an additional reference source to identify invasive plants (Special Condition 2.A.(2), page 9); (4) requiring, as part of the landscape plan, that the applicant provide an analysis of the benefits of the selected landscaping materials on the native wildlife species that may utilize this vegetation, (Special Condition 2.B.(6), page 10); (5) requiring again an additional reference source to identify invasive plants (condition 4.A.6, page 14); (6) specifically requiring trash racks at both the inlets and outlets of drains; (Special Condition 9.A.2(d) page 19); (7) requiring that in any area where invasive plants are removed shall be replanted with common native plants according to a seeding program approved by the Executive Director, (Special Condition 16.A, page 23). These changes to several conditions were adopted by referring to "Tabs D and E "of the applicant's letter of November 15, 2001 that provided its response to issues that had been raised by the public (See also letters from Heal the Bay and Friends of Ballona Wetlands; See also pages 58-60 of the transcript.)

The Commission approved no changes to the purpose and scope of the project. In adopting its changes, the Commission considered comments made by the public and the applicant, and accepted additions suggested by the applicant to address concerns raised by the public concerning water quality and habitat. The applicant concurs with this record of the Commission's action with one exception: its representatives have indicated that they believe the requirement to maintain 0.40 acres in the biofiltration basin as wetland vegetation should be a requirement to maintain 0.04 acres as wetland vegetation (Special Condition 4.A (2), page 11). The applicant states that the number is a result of a typographic error and is too large to feasibly construct. In drafting the condition, staff used a number that was roughly the same percentage of the basin devoted to wetlands in the larger basin that the Commission considered in April and June of 2001. The applicant did not identify the staff error at the hearing, and the Commission adopted the 0.40-acre figure. The staff is recommending that the Commission adopt findings and conditions reflecting the number, 0.40 acres, that was approved at its public hearing in November, 2001. If there is new information that was not available at the November 2001 hearing concerning the design details of the biofiltration basin, the Commission can consider the issue in a request to amend this Coastal Development Permit. The motion is found on page 4.

#### **Procedural Note:**

This project is located in the City of Los Angeles, which has assumed pre-certification permit jurisdiction under Section 30600(b) of the Coastal Act. While there is a certified

LUP for this area, the Commission has not certified implementation ordinances. Section 30600(b) allows a local jurisdiction to issue coastal development permits prior to certification of its Local Coastal Program, subject to appeals by any person within 20 working days of issuance of the permit.

The Coastal Act also identifies areas where, irrespective of the City's grant of a coastal development permit in its pre-certification program, the Commission must grant a second coastal development permit for all development. Section 30601 establishes that, in addition to a permit from local government pursuant to subdivisions (b) or (d) of section 30600, a coastal development permit shall be obtained from the Commission for all major public works projects, for developments located within 100 feet of any wetland, estuary or stream, or located between the first public road paralleling the sea and the sea. The project is a major public works project. This road-widening project is also located between Culver Boulevard, a public road, and the Ballona Channel, which, because it is subject to tidal action, is regarded as an arm of the sea for purposes of Section 30601. Finally, the ramps are located within 100 feet of Ballona Creek, a tidal estuary. Consequently, the applicant was required to, and did, submit independent applications for coastal development permits to both the City and the Coastal Commission.

On January 11, 2001, the Commission found that the appeal of local permit CDP-3B, appealed as A-5-PLV-00-417 (Playa Capital Company LLC), raised a substantial issue with respect to its conformity with the Coastal Act. In June, 2001, the Commission reviewed two applications in concert: it held De Novo hearings on Appeal A-5-PLV-00-417 and on permit application 5-00-400, which the applicant submitted in accordance with Section 30601. At the end of the June 2001 hearing the applicant withdrew permit 5-00-400, and requested that the Commission continue the appeal, pending revisions to the project description to address the Commission's concerns about wetlands. Subsequently the applicant has submitted a new permit application under Section 30601, and has revised, with the City's concurrence, the configuration of the loop proposed in Appeal A-5-PLV-00-417.

To avoid confusion, there is one set of findings and conditions applying to both permits, since the standard of review for both permits is identical--the Coastal Act. However, there are two motions and two resolutions. .

## **I. MOTIONS, STAFF RECOMMENDATION, AND RESOLUTIONS OF APPROVAL.**

The staff recommends that the Commission adopt the following resolutions to **APPROVE** the revised findings concerning its approval of the appealed local permit de novo and the direct coastal development permit application with special conditions.

**MOTION I.** I move that the Commission adopt the revised findings in support of the Commission's action on November 16, 2001, concerning Coastal Development Permit 5-00-382.

**MOTION II.** I move that the Commission adopt the revised findings in support of the Commission's action on November 16, 2001, concerning the Commission's approval with conditions of appealed permit A-5-PLV-00-417.

**STAFF RECOMMENDATION OF APPROVAL:**

Staff recommends a **YES** vote on the motions. Passage of these motions will result in the adoption of revised findings as set forth in this staff report. The motion requires a majority vote of the members from the prevailing side present at the October 8, 2001 hearing, with at least three of the prevailing members voting. Only those Commissioners on the prevailing side of the Commission's action are eligible to vote on the revised findings.

**RESOLUTION TO ADOPT REVISED FINDINGS FOR PERMIT NUMBER 5-01-382:**

The Commission hereby adopts the findings set forth below for Coastal Development Permit **5-01-382** on the ground that the findings support the Commission's decision made on November 16, 2001 and accurately reflect the reasons for it.

**RESOLUTION TO ADOPT REVISED FINDINGS FOR APPEAL NUMBER A-5-PLV-00-417:**

The Commission hereby adopts the findings set forth below for appealed Coastal Development Permit **A-5-PLV-00-417** on the ground that the findings support the Commission's decision made on November 16, 2001 and accurately reflect the reasons for it.

**II. STANDARD CONDITIONS**

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

### **III. SPECIAL CONDITIONS:**

#### **1. EXTENDED BIOFILTRATION BASIN**

A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall provide final plans for the 0.57-acre extended detention/biofiltration basin (Water Quality Basin) for the review and written approval of the Executive Director. In reviewing the plans, the Executive Director shall consult with the staff of the Regional Water Quality Control Board and the City of Los Angeles Department of Public Works. The final plans shall demonstrate that the extended detention/biofiltration system will be designed, implemented and maintained consistent with the following specifications:

- 1) The capture goal (the volume of runoff from the development to be captured and detained) for the extended detention/bio-filtration system, shall be no less than the volume of stormwater runoff generated by all runoff events up to and including the 85th percentile, 24-hour runoff event (one inch in this location.)
- 2) Energy dissipaters shall be placed at the basin's entrance to minimize bottom erosion and re-suspension.
- 3) The basin shall be designed to provide bypass or have pass-through capabilities for large storm events; e.g. the 100-year storm runoff.
- 4) The system shall be maintained for the life of the project, in accordance with the applicable recommendations contained in the California Stormwater Best Management Practice Handbook - Municipal (1993), which include, but are not limited, to the following:
  - Conduct inspections semi-annually and after each significant storm; remove floatables.

- Check outlet regularly for clogging.
- Check banks and bottom of surface basin for erosion and correct as necessary.

5) Soil tests.

- a) Base line. Upon completion of excavation, the applicant shall test the soil horizon from the surface to six feet under the surface where it intends to construct the extended biofiltration basin for the pollutants listed below in Special Conditions 1, 2, and 8. The applicant shall report the results to the Executive Director.
- b) Test after construction. Upon completion of the extended biofiltration basin the applicant shall again test the soils the soil horizon from the surface to six feet under the surface, and report the results to the Executive Director.
- c) Test after operation. Five years after installation is complete; the applicant shall test the soil horizon from the surface to six feet under the surface to detect significant buildup of toxic materials that might impact the ground water.

The copies of the monitoring reports shall be provided to the Executive Director, the Los Angeles City Department of Public Works and the Regional Water Quality Control Board. Any removal and remediation of soils beneath the basin, if necessary, shall require an amendment to this permit. Periodic removal of accumulated sediments within the basin above the level of the finish elevation would not require an amendment to this permit.

6) Planting within the basin, and landscaping along the right of way, shall be installed as indicated in Special Condition 2 below, and maintained in accordance with the following water quality oriented “good housekeeping practices:”

(a) An Integrated Pest Management Program (IPM) shall be designed and implemented for all of the proposed landscaping/planting on the project site. Because of the project’s location within the immediate watershed of Ballona wetland, where feasible and appropriate, alternatives to pesticides including, but not limited to, the following shall be implemented:

- Introduction of native natural predators. Also, some bacteria, viruses and insect parasites may be preferable to pesticides.
- Weeding, hoeing and trapping manually.
- Use of non-toxic, biodegradable alternative pest control products.

(b) Where pesticides and/or herbicides are deemed necessary in conjunction with the IPM program, the following shall apply:

- All state and local pesticide handling, storage, and application guidelines, such as those regarding timing, amounts, method of application, storage and proper disposal, shall be strictly adhered to.
- Pesticides containing one or more of the constituents listed as parameters causing impairment of the receiving waters for the proposed development (Ballona Creek and Ballona Creek Estuary) on the California State Water Resources Control Board's 1998 Clean Water Act section 303 (d) list, or those appearing on the 2002 list shall not be employed. In addition to those products on the section 303(d) list, products that shall not be employed include but are not limited to those containing the following constituents:
  - Chem A. (group of pesticides) – aldrin, dieldrin, chlordane, endrin, heptachlor, heptachlor epoxide, hexachlorocyclohexane (including lindane), endosulfan, and toxaphene
  - DDT.

7) Limitations. This bio-remediation basin is sized to accommodate 5.1 acres of new pavement. If there is a changed pattern of water sources or if additional storm water is planned to be directed into this basin; the applicant shall notify the Executive Director who shall determine whether or not an amendment to this permit is required.

- B. The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

## **2. LANDSCAPE PLAN.**

A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant will submit, for the review and written approval of the Executive Director, a plan for landscaping that is compatible with habitat restoration in the Ballona Wetlands. A qualified restoration specialist who is a biologist or licensed landscape architect shall prepare the plan.

The plan shall be consistent with the following requirements:

1. All vegetation planted on the site will consist of native plants typically found in the Ballona wetlands and associated dune and bluff faces. The seeds and cuttings employed shall be as much as possible from sources in and adjacent to the Ballona wetlands and the Airport Dunes. If other Southern California sources are used, the locations of the seeds/cutting sources and the approximate number of plants and/or amount of seeds/cuttings from each source shall be reported to the Executive Director.
  2. No non-native or invasive species will be employed or allowed to naturalize or persist on the site. Invasive plants are those identified in the California Native plant society, Los Angeles -- Santa Monica Mountains Chapter handbook entitled Recommended List of Native Plants for Landscaping in the Santa Monica Mountains, January 20, 1992; those species listed by the California Exotic Plant Pest Council on any of their watch lists as published in 1999 and as updated periodically ([www.ceppc.org](http://www.ceppc.org)); and those otherwise identified by the Department of Fish and Game or the United States Fish and Wildlife Service.
  3. Planting will maintain views of the wetlands and bluffs.
  4. The site will be stabilized immediately with jute matting or other BMP, and initial installation of all planting will be completed within 60 days after the first rains after completion of construction.
  5. The applicant will actively monitor the site for five years after permit issuance, remove non-natives and reinstall plants that have failed. The applicant will monitor and inspect the site no less than every 30 days during the first rainy season (November-March) the first year after the newly constructed road is open to vehicles, and no less than every 60 days during the first year. Thereafter, the applicant will monitor the site every three months or on the Department of Transportation's regular landscape maintenance schedule, whichever is more frequent.
- B. The plan shall include, at a minimum, the following components:
1. A map showing the types, size, and locations of all plant materials that will be on the developed site, the irrigation system, topography of the developed site, and all other landscape features, and
  2. A schedule for installation of plants;
  3. An identification of seed sources and plant communities of the plants planned to be employed;
  4. A manual for maintenance methods and a plan for training maintenance employees in the needs of the plants on the plant palette and on the identification of invasive plant;
  5. A list of chemicals proposed to be employed and methods for their application. Said chemicals shall not be toxic to fish or wildlife or persistent in the environment. Herbicides shall be applied by hand application or by

other methods that will prevent leakage, percolation or aerial drift into adjacent restoration areas. Pursuant to this:

- a) An Integrated Pest Management Program shall be designed and implemented for all of the proposed landscaping/planting on the project site. Because of the project is located within the immediate watershed of Ballona wetland, where feasible and appropriate, alternatives to pesticides including, but not limited to, the following shall be employed:
  - (1) Introduction of native natural predators. Also, some bacteria, viruses and insect parasites may be preferable to pesticides.
  - (2) Weeding, hoeing and trapping manually.
  - (3) Use of non-toxic, biodegradable, alternative pest control products.
- b) Where pesticides and/or herbicides are deemed necessary in conjunction with the IPM program, the following shall apply:
  - (1) All state and local pesticide handling, storage, and application guidelines, such as those regarding timing, amounts, method of application, storage and proper disposal, shall be strictly adhered to.
  - (2) Pesticides containing one or more of the constituents listed as parameters causing impairment of the receiving waters for the proposed development (the Ballona Freshwater Marsh; Ballona wetlands, Ballona Creek and Ballona Creek Estuary) on the California Water Resources Board 1998 303 (d) list, or adopted updates of this list shall **not** be employed. Products that shall not be employed are those listed in condition 1A(7)(b) above or any determined by the Department of Fish and Game to be deleterious to the habitat or wildlife of the wetland.

- 6. An analysis of the benefits of the selected landscaping materials on the native wildlife species that may utilize this vegetation.

C. The permittee shall undertake development in accordance with the approved final plan and schedule and other requirements. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

### 3. STAGING AREAS FOR CONSTRUCTION

A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the permittee shall submit a plan for the review and written approval of the Executive Director. The plan shall conform to the staging plan provided in Exhibit 4. The plan will indicate that zones of construction disturbance, including but not limited to the construction staging area(s), construction corridor(s) and temporary detours will not encroach onto wetlands areas identified by coastal staff or by the Department of Fish and Game or the United States Army Corps of Engineers Wetlands Map of 1989 (Exhibit 16, pages 5 and 6). Such zones of construction disturbance will be set back no less than 10 feet from any wetland including the “Mulefat with *Picris*” and the “Mulefat with Dock” areas noted on Exhibit 6.

1. The plan shall demonstrate that:
  - (a) Construction equipment or activity shall not occur outside the staging area and construction corridor identified on the site plan required by this condition;
  - (b) The applicant shall place 48-inch high hazard fencing at least 1 foot outside the mapped wetlands and at least two feet outside the two mulefat areas noted above to the satisfaction of the Executive Director. The applicant shall place sandbags and/or plastic on the upland sides of each fence to avoid siltation into protected areas.
2. The plan shall include, at a minimum, the following components:
  - (a) A site plan that depicts:
    - (1) Limits of the staging area(s);
    - (2) Construction corridor(s);
    - (3) Construction site;
    - (4) Location of construction fencing and temporary job trailers;
    - (5) Location of stockpile areas;
    - (6) detours
    - (7) A temporary runoff control plan that directs runoff from the site through any necessary and appropriate Best Management Practices prior to discharge into Ballona wetland.

B. The permittee shall place the fences and sandbags noted in section 3.A.2 (a) to the satisfaction of the Executive Director before beginning construction. The applicant shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans or location of fences or sandbags shall be reported to the Executive Director in advance of the relocation. No changes to the approved final plans shall occur without a Commission amendment

to this coastal development permit unless the Executive Director determines that no amendment is required.

#### 4. LANDSCAPING AND EROSION CONTROL PLANS

A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit landscaping and erosion control plans, prepared by a licensed landscape architect or a qualified resource specialist, for review and written approval by the Executive Director. The landscaping and erosion control plans shall address temporary and permanent vegetation within the extended biofiltration basin (basin) and along the roadsides from which vegetation will be removed in this and the related Lincoln Boulevard roadway adjacent landscaping. The plans shall be reviewed and approved by the Los Angeles City Fire Department, the Los Angeles City Bureau of Street Maintenance and or Caltrans to ensure that the plants are in conformance with fire and highway safety practices and shall also be submitted to the Angeles Region of the California Department of Parks and Recreation for its comments. The plans shall incorporate the following:

1. Initial assessment. The applicant shall provide a brief initial assessment describing the soil type likely to be found on the roadside and in the basin at the completion of the construction of the road and measures necessary to assure the soils in the basin will be appropriate for wetland plants, the amount of water to be expected, the amount of irrigation necessary to maintain the project, and the measures that might be necessary to control invasive plants. The applicant shall take photographs of the area adjacent to the improvement area to document the existing condition as a part of the initial assessment.
2. Habitat Goals. Prior to preparing the landscaping plan for the basin, the applicant shall provide a statement of habitat goals prepared by a biologist or licensed landscape architect for the review and written approval of the Executive Director. The goals shall establish a minimum coverage of each type of plant community, *including no less than 0.40 acres of wetland or hydrophytic plants*<sup>1</sup>. Plans and notes shall also indicate the goals underlying the choices of any other plants shown for street side landscaping and indicate the habitat function of the proposed vegetation--the animals and other plants expected to benefit from the presence of the vegetation. All plants shall be native southern California plants of species

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<sup>1</sup> Applicant believes that this figure should be 0.04 acres, and that this is a typographic error. In the view of its engineers it is not possible to construct a wetland element of this size. Staff wrongly assumed that the amount of wetland in the new design would be about the same percentage of the area of the basin as in the previous version, and the applicant did not identify the error until it received the Notice of Intent to Issue Permit.

found in the Ballona Wetland area. The plan shall specify the seed source and as much as possible rely on seeds and cuttings from the Ballona/Airport area. The general goals of the plan shall be to provide support habitat for birds and insects found in the area presently or in the past.

3. After approval of the plan in concept, the applicant shall provide detailed plans and notes that show the location of plants, sizes of container plants, density of seeds if seeds are used, expected sources of seeds and container plants, a schedule of installation and a statement describing the methods necessary to install and maintain the basin and the kinds and frequency of maintenance expected to be necessary in the long term. The plan shall be drawn up with consideration of the limitations noted in Special Condition 1 above. As much as possible, native plants shall be derived from sources located within the Ballona region.
4. Based on the information in the plan and the initial assessment, the applicant shall prepare a monitoring schedule, providing (1) an initial report upon completion of initial planting, no later than the first day of December of the year in which the road is opened to traffic, to verify that the plants have been installed according to the approved plan, (2) no fewer than two additional reports in the first year after completion of the initial report, and (3) no fewer than one report in each subsequent year. The reports shall contain a brief description of the condition of the plants, the degree of coverage and the survival rate of various plants, either photographs, maps or illustrations and recommendations concerning activities necessary to achieve the stated "Habitat Goals" discussed above. The applicant shall, at the appropriate season, replant to remedy the deficiencies noted in the monitoring reports.
5. Vegetation planted in the extended biofiltration basin shall be native wetlands, coastal sage scrub and coastal prairie plants as shown on the plans submitted December 1, 2000, as modified based on the assessment of soils, any comments of the Resources Agencies or as required by the Executive Director.
6. At maturity, no less than 90% of the plant cover on road sides shall be coastal prairie or coastal sage scrub plants sited and chosen to avoid a build up of fuel for fires and other hazards and to improve the appearance of the road side. The goal of the roadside planting shall include buffering any future parks, trails or residential structures from the noise and visual impact of the road and providing an attractive passage through the area. Available lists of invasive plants are found in the California Native Plant Society, Santa Monica Mountains Chapter, document entitled

*Recommended Native Plant Species for Landscaping Wildland Corridors in the Santa Monica Mountains*, dated January 20, 1992, the California Exotic Plant Pest Council watch lists, cited above, and other Commission and US Fish and Wildlife service approved list of invasive plants such as the Ocean Trails invasive plant lists (A-5-RPV-93-005.) The Executive Director may identify additional invasive plants.

7. Such planting shall be adequate to provide 75% coverage within two (2) years and not less than 90 percent coverage within five years, and this requirement shall apply to all disturbed soils;
8. Plantings will be installed at the conclusion of the installation of pavement and drainage pipes. They shall be maintained in good growing condition throughout the life of the Phase I Playa Vista project and, whenever necessary shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements.

B. The Permittee shall undertake development in accordance with the final approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. The Executive Director may approve minor changes. No significant changes to the approved final plan shall occur without a Coastal Commission approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

## 5. **ARCHAEOLOGICAL RECOVERY**

**PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall provide evidence for the review and written approval of the Executive Director that the archaeological recovery permitted under CDP 5-98-164A has been undertaken, and that the reviewing agencies (The United States Army Corps of Engineers and the State Historic Preservation Officer) have determined that no further investigation of the sites in the vicinity of the approved road widening project is required. The "vicinity" means within 100 yards. If cultural deposits or grave goods (as defined by SHPO) are uncovered during construction, work must stop until the archaeological monitor and the Native American monitor can evaluate the site and, if necessary, develop a treatment plan that is consistent with the programmatic agreement.

- A qualified archaeological monitor shall be present on the site during all project grading.
- If human remains are found, the Commission requires that the applicant carry out identification recovery or reburial consistent with the research design approved in the Programmatic Agreement and CDP 5-98-164.

**6. MAINTENANCE AND DEDICATION GUARANTEES FOR LIFE OF ROAD**

A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT** the applicant shall provide an enforceable agreement for the review and written approval of the Executive Director providing for maintenance of the extended detention/biofiltration basin for the life of the road. The agreement shall include a source of funds and an identified agency or entity responsible for the collection of funds and carrying out the requirements of Special Conditions one and two above.

B. The permittee shall undertake development in accordance with the approved final plan and schedule and other requirements. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

**7. INSTALLATION OF TEN-FOOT WIDE SIDEWALK**

A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit revised plans for roadside improvements for the review and approval of the Executive Director. In addition to the landscaping required in Special Condition 2 above, the plans shall provide a ten-foot wide standard City sidewalk and a five foot wide landscaped buffer within a fifteen-foot corridor on the south side of Culver Boulevard in the area designated for that purpose. The sidewalk shall extend from the intersection with Route 90 to the entry of the Little League ball field or as otherwise required by the City of Los Angeles Department of Transportation (DOT). Landscaping shall be installed consistent with the requirements of Special Condition 2 as it pertains to roadside landscaping.

B. Pursuant to this requirement, the applicant shall provide an Interim Change Authorization from the Los Angeles City Department of Public Works approving the location and design of these features. Said sidewalk shall be located so that it will be feasible to connect it with the existing sidewalk in the City of Los Angeles immediately outside of the Coastal Zone, north of Route 90.

C. The applicant shall construct said sidewalk at the same time as the roadways and shall complete the work under the same contract and within the same timetable.

D. The permittee shall undertake development in accordance with the approved final plan and schedule and other requirements. Any proposed changes to the

approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

## 8. EROSION AND SEDIMENT CONTROL PLAN.

A. The applicant and its contractors will prevent any discharge of solids, earth, silt or harmful materials including fuels, debris or construction materials into the small wetland area identified by staff or into other wetlands. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for the review and written approval of the Executive Director an Erosion and Sediment Control Plan outlining appropriate Best Management Practices to limit, to the maximum extent practicable, erosion and sedimentation during construction. Due to the sensitive location of the project, the plan must meet the following criteria:

- 1) The plan will delineate the areas to be disturbed by grading or construction activities and will include any temporary access roads, staging areas, and stockpile areas. Both the permitted zones of construction disturbance identified in Special Condition 3 and the wetlands mapped by the resource agencies and identified by staff (see Special Condition 6, "Mulefat with Dock" and "Mulefat with Picris") shall be staked, fenced and the location of the fencing approved by Executive Director. These wetland areas shall be clearly delineated on the project site with 4-foot high hazard fencing.
- 2) To the maximum extent practicable, construction shall occur in stages that limit the length of time that the soils are uncovered at any one time. Pursuant to this condition, the applicant shall provide a staging plan as part of its Erosion and Sediment Control Plan.
- 3) Grading shall be minimized to the maximum extent practicable during the rainy season (October 15 through April 1).
- 4) Applicant shall use, install or construct temporary drains and swales, gravel, sandbag barriers, fiber rolls, and silt fencing as appropriate. Applicant must also stabilize any stockpiled fill and cut or fill slopes with geotextiles or mats on all and close and stabilize open trenches as soon as possible. These erosion measures shall be required on the project site prior to and concurrent with the initial grading operations and maintained throughout the development process to minimize erosion and sediment from runoff waters during construction.
- 5) Given the sensitivity of adjacent habitat, sediment basins are not sufficient to capture sediment. They must be accompanied by more stringent means of controlling sediment in close proximity to marshes and wetlands. The plan therefore shall also include temporary erosion control

measures should grading or site preparation cease for a period of more than 30 days. Temporary measures shall include, but are not limited to, stabilization of all stockpiled fill, access roads, disturbed soils and cut and fill slopes with geotextiles and/or mats, sand bag and gravel bag barriers, silt fencing; temporary drains and swales and sediment basins.

- 6) Limit, to the maximum extent practicable, the sediment discharged into the Marina Drain, Ballona Creek or the mapped mulefat/wetland areas identified in Exhibit 6.
- 7) Trucks and equipment shall not be allowed to track mud or other materials onto roads per methods outlined in Caltrans BMP CD29A (2), Caltrans Storm Water Quality Handbook, or an equivalent measure required by Los Angeles City Department of Public Works.
- 8) The applicant shall test soils for toxicity during excavation according to DTSC rules and RWQCB rules.
- 9) If toxic deposits are identified, other than non-water soluble aerially deposited lead, the toxic material shall be removed and transported to an appropriate disposal site approved for contaminants that may be discovered in the material. The site shall be an approved disposal site located outside the coastal zone.
- 10) No toxic material excavated shall be stockpiled on site for more than 24 hours.
- 11) Aerially deposited lead discovered during the excavation of the site shall be handled according to DTSC rules. If the lead is water-soluble, it shall be hauled offsite as indicated in sub-section A9 above. If it is not soluble, it may be properly capped and used under the improved roadway if consistent with DTSC approvals.
- 12) The Applicant or its contractors shall not use lead-contaminated materials from off-site as road fill.
- 13) Airborne particulates shall be controlled consistent with the rules of the Air Quality Management District.

B. The permittee shall undertake development in accordance with the approved final plans and with this condition. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

## **9. CONSTRUCTION AND POST-CONSTRUCTION WATER QUALITY MANAGEMENT PLAN.**

A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT** the applicant shall provide for the review and written approval of the Executive Director a Water Quality Management Plan. This plan shall include a list of best management practices to reduce and control the amount of polluted runoff that

is discharged into the Marina Drain, Ballona Creek, Ballona Wetland, or any other waterway. Pursuant to this requirement, the plan shall include:

1. Construction BMPs

- (a) All trash and debris shall be disposed in the proper recycling or trash receptacles at the end of each day.
- (b) All stock piles and construction material shall be covered and enclosed on all sides, shall be located as specified in Special Condition 3, above, but in addition, as far away as possible from the "mulefat" areas identified on Exhibit 2, drain inlets, or any other waterway, and shall not be stored in contact with the soil.
- (c) Vehicles shall be refueled offsite, or in an on-site staging area with proper BMPs as delineated in the Water Quality Management Plan.
- (d) Asphalt demolished from the site shall be removed within 48 hours. Asphalt shall not be stockpiled.
- (e) Contaminated sediments discovered during construction shall be permanently removed from the site and transported to an appropriate offsite disposal facility.
- (f) Staging areas shall include impermeable berms to catch fuel spills.
- (g) Spills of all solid and liquid materials shall be immediately cleaned up; clean-up materials shall be disposed of properly. Dry spills should be swept, not washed or hosed. Wet spills on impermeable surfaces shall be absorbed, and absorbent materials shall be properly disposed. Wet spills on soil shall be dug up and all exposed soils properly disposed.
- (h) Apply concrete, asphalt, and seal coat during dry weather to prevent contaminants from coming into contact with stormwater runoff.
- (i) Cover storm drain inlets and manholes when paving or applying seal coat, tack seal, slurry seal, fog seal, or similar materials.
- (j) Always park paving machines over drip pans or absorbent materials, since they tend to drip continuously.

2. Post Construction BMPs

- (a) Reduce post-development loadings of Total Suspended Solids (TSS) so that the average annual TSS loadings are no greater than pre-development loadings; OR
- (b) If the goal established in subsection 2b is not feasible, after construction has been completed and the site is permanently stabilized, reduce the average annual TSS loadings by 80% (for the purposes of this measure, an 80% TSS reduction is to be determined on an average basis and should not result in TSS lower than the pre-development level).

- (c) Install an appropriate suite of source control and structural treatment BMPs to achieve the above-stated goals. Structural treatment BMPs shall be designed to treat, infiltrate, or filter the amount of stormwater runoff generated by any storm event up to, and including the 85<sup>th</sup> percentile, 24-hour storm event for volume-based BMPs, and/or the 85<sup>th</sup> percentile, 1-hour storm event, with an appropriate safety factor, for flow-based BMPs.
- (d) BMPs must include intermediary catch basins, hydrocarbon filtration devices, and trash filters sized according to the above specifications. Trash catching devices will be included in both the inlets to the biofiltration basins as well as the outlets. Install energy dissipaters at the outlets of all discharge points
- (e) Monitor and maintain all structural and non-structural BMPs, including, but not limited to, hydrocarbon filters, energy dissipaters, trash racks, and catch basins according to manufacturers' specifications and according to the regional climate. Such procedures shall occur at a frequency as specified by the manufacturer, where appropriate, and no less than a 30-day interval during the rainy season (October 1 – April 1).
- (f) Regularly patrol the area for discarded containers, trash, and other materials likely to blow into or otherwise impact adjacent wetlands or Ballona Creek.
- (g) Otherwise comply with the orders of the RWQCB for large paved areas.

- B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

## **10. PROJECT LIGHTING.**

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT** the applicant shall provide lighting plans for the review and written approval of the Executive Director. The plans shall provide :
- (1) Illumination shall be at the lowest levels allowed in federal and state standards for secondary highways.
  - (2) All lights shall be directed downward so that spillover outside the right of way shall not exceed ten feet.
  - (3) No night work or night construction lighting shall be permitted.
- B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported

to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

**11. PROOF OF AUTHORIZATION TO CONSTRUCT ROAD WAY AND EXTENDED DETENTION/BIOFILTRATION BASIN AND TO CONDUCT MAINTENANCE WORK ON COUNTY PROPERTY.**

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall provide for the review and written approval of the Executive Director a valid executed and recorded agreement from Los Angeles County, the owner of the land inside the “Culver Loop” that allows the City and/or the applicant and/or its successors in interest and/or the identified agency or entity pursuant to Special Condition No. 6 to construct the project as described in this permit as approved and to enter and maintain the extended detention/biofiltration basin. Such agreement shall include a valid “B” permit issued by the City of Los Angeles Department of Public Works with an Interim Change Authorization to include all work authorized by this coastal development permit and either **proof of** City ownership of the land or a legally enforceable executed easement from Los Angeles County allowing them to carry out the work described in City of Los Angeles “B permit” issued for the work and this coastal development permit. Said easement shall have been approved as to form by the City Attorney of the City of Los Angeles and by the Los Angeles County Counsel and by the U.S. Trust Company of California if a title report shows that any land inside the loop is owned in trust for the benefit of the State.
- B.** Said agreement shall be recorded free of prior liens that the Executive Director determines might affect the ability of the applicant or its successors to carry out the intended maintenance or construction.
- C.** The permittee shall undertake development in accordance with the approved final plans, schedule and other requirements, including requirements of its “B” permit. Any proposed changes to the final plans approved in this permit shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

**12. PERMITS**

To assure that the City “B” permit or Storm Water Pollution Prevention Plan, are consistent with the Commission’s action, **PRIOR TO ISSUANCE OF THE**

**COASTAL DEVELOPMENT PERMIT** the applicant shall provide for the review and written approval of the Executive Director proof that the City of Los Angeles has issued the B permit the Storm Water Pollution Prevention Plan, if required and all other necessary permits. Any proposed changes to the final plans approved in this permit shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

**13. INSPECTION OF ABANDONED OIL WELL**

**PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall provide evidence to the satisfaction of the Executive Director that the City of Los Angeles Department of Public Works and/or the State of California Division of Oil and Gas has been notified of the presence of the abandoned oil well identified in the City Legislative Analyst's report entitled "City Investigation of Potential Issues of Concern for Community Facilities District No. 4, Playa Vista Development Project," March 2001 (Methane Report), as located on or near the proposed loop road and has either determined in writing that re-abandonment is unnecessary or has approved plans and a time table for any necessary re-abandonment of such well.

**14. BIOLOGICAL MONITOR/OFFSITE IMPACTS.**

**A. SOUTHERN TARPLANT/BIOLOGICAL MONITOR**

During any blooming period of the Lewis' evening primrose and of the Southern tarplant, which may occur no fewer than 11 months prior to the commencement of excavation, and **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, and again before any vegetation is disturbed; a biologist whose qualifications have been reviewed and approved by the Executive Director shall survey the site and prepare a report to the Executive Director concerning the presence of (1) Southern tarplant *Centromadia parryi* ssp *australis*, (2) nesting birds. If a nesting bird is found within or immediately adjacent to the footprints of the excavation or of the staging areas, the work shall not proceed until the qualified biologist certifies that the chicks have fledged and that the work will not disturb the birds. If the Southern tarplant is found within the footprints of excavation or of the staging areas, the work shall not proceed until a mitigation plan is provided for the review and approval of the Commission to determine whether such work is consistent with Chapter 3 of the Coastal Act. The mitigation plan shall consider avoidance, or salvage and replanting within Area B or C Ballona and shall recommend the option with the least disturbance. Any replanting in areas not subject to a currently valid coastal development permit that includes revegetation, such as 5-01-223 or 5-01-382, shall require an amendment to this permit or a new

permit. All reports shall be filed in the Commission office prior to issuance of the permit and again prior to the start of work. In addition to confining the work to the approved excavation areas, the applicant shall place visible orange plastic 48-inch high temporary fences around the area in which the tarplant has been found and will **keep out and prevent** excavation, stockpiling, and the entry of vehicles or storage of equipment in this (tarplant) area. A biological monitor shall remain on site through out the excavation. A copy of the Biological Monitor's reports shall be provided to the Executive Director and shall be available for the public. The Executive Director shall review and approve the qualifications of the biological monitor.

B. The permittee shall undertake development in accordance with this condition. Any proposed changes to the approved biological monitoring procedures shall be reported to the Executive Director. No changes to the approved biological monitoring procedures shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

**15. DISPOSAL OF HAZARDOUS MATERIAL DISCOVERED DURING CONSTRUCTION.**

**PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT** the applicant shall provide for the review and written approval of the Executive Director a contingency plan that has been reviewed by the RWQCB for testing of excavated materials for contamination. The plan shall include a contingency plan for excavation, and disposal of any contaminated hazardous materials that may be discovered during construction. If over-excavation is required, the applicant shall inform the Executive Director who shall determine whether an amendment to this permit is required. If the grading quantities exceed those estimated in the permit application an amendment is required. The plan shall identify testing protocols, supervision and sites approved for disposal that are outside the coastal zone. Material shall not be stockpiled on site more than 24 hours.

B. The permittee shall undertake development in accordance with the approved final plan and schedule and other requirements. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required. All stockpiles shall be located within the disturbed areas noted in Special Condition 1.

**16. REMOVAL OF INVASIVE SPECIES.**

A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT** the applicant shall identify on its property no smaller than the areas of road improvement and the zones of construction disturbance identified pursuant to Special Condition 3. The applicant shall submit a plan for the review and written approval of the Executive Director identifying this area and including methods for removal of invasive plants within this area. No dead plants shall be left on site and no persistent chemicals shall be employed. Herbicides may be employed if applied with small cans or paintbrushes to the stems of cut plants. Invasive plants are defined as including pampas grass, ice plant and/or castor beans or any other plant noted on the CNPS invasive plant list above. Unless authorized by an amendment to this permit, the invasive plant removal area shall not include any area identified as wetland (1) in the Corps 1989 Wetland Delineation or as Wetland or Wetland (AG) (2) in the 1984 Fish and Game survey or (3) by the Coastal Commission staff in a written report. The plan shall include the details of techniques, timing and methods of documentation of such removal. The applicant shall not undertake such work when there are nesting birds present in or near the invasive plants. Pursuant to this requirement, a qualified biological monitor shall survey the area before the removal program begins. Areas in which invasive plants are removed shall be replanted with common native plants according to a seeding program approved by the Executive Director.

B. The removal shall be completed within one year of the issuance of this permit. The removal shall be carried out in accordance with the approved final invasive plant removal plan. Upon completion of the work the applicant shall provide a written summary and photographic evidence of its completion.

**17. NO WORK DURING THE RAINY SEASON**

The applicant shall not undertake the grading, paving and land disturbance approved in this permit during the rainy season, October 15-March 30. The applicant may install lighting, landscaping and conduct final finishing and clean up during the rainy season.

**IV. FINDINGS AND DECLARATIONS**

The Commission hereby finds and declares:

## **A. PROJECT DESCRIPTION AND BACKGROUND**

The project before the Commission is to (1) add a loop ramp that will connect north-bound Lincoln Boulevard to east and west-bound Culver Boulevard, (2) relocate, improve the radius of and widen a second loop ramp that presently connects east bound Culver Boulevard with north bound Lincoln Boulevard, and (3) add a lane (27 or more feet of pavement within a 38-41 foot wide strip) to Culver Boulevard on the south side of Culver Boulevard from Lincoln Boulevard to the Marina Freeway, (Route 90), (4) construct ground level ramps between Culver Boulevard and the Marina Freeway, (5) add lighting, drainage and landscaping, and (6) install a 0.57 acre extended detention/bio-filtration basin. Both the Commission and the City approved the ramp and road widening portions of this project in 1995 as 5-95-148(Maguire Thomas). Due to financial difficulties, the applicant did not construct the project and the permit expired. This and recently approved coastal development permit 5-99-139, improvements to Lincoln Boulevard, are applications to seek re-approval of two parts of the project approved in CDP 5-95-148.

The proposed street widening is required to mitigate traffic generated by Playa Vista Phase One, two tracts located outside the Coastal Zone that the City of Los Angeles approved in 1995 (see Table 1). This and other widening projects were mitigation measures listed in the Phase I EIR, as amended, and required by the City. The addition is designed to add 27 feet, but because of lane width needed for weaving and turning, it will add 38 to 41 feet of pavement to the 34 to 37 foot-wide road, improve the safety of an existing ramp at Lincoln, provide a connection to north bound Lincoln from Culver Boulevard and provide an at-grade one way ramp connections at the Marina Freeway. The enlarged road would relieve Jefferson Boulevard from traffic seeking to take the northbound 405 from the homes and workplaces in the Phase I Playa Vista project and reduce its traffic impacts on Lincoln Boulevard, an already over-burdened north-south route. The improvement will make it possible to enter Culver Boulevard from northbound Lincoln and to exit Culver Boulevard onto Lincoln going in either direction.

There are other street and highway improvements that the Commission will consider at the present, November 2001 hearing. The City has also required the applicant to change the geometry of the intersection at Culver Boulevard and Jefferson Boulevard in Area B from a "V" shaped intersection to a "T" intersection. This matter is reported at this November 2001 hearing as 5-01-223 and A-5-PLV-01-281. The applicant has withdrawn an application for the extension of Playa Vista Drive (previously identified as "Bay Street") from Jefferson Boulevard to Culver Boulevard, the street subject to the current application

The project has traffic impacts that will be mitigated by work on two roads owned by Caltrans, Route 90 and Lincoln Boulevard. Caltrans has released an EIR for widening Lincoln Boulevard to eight lanes from Hughes Terrace, at the southern end of the Playa Vista project, to Fiji Way. The Commission has received no application for the bridge widening. The EIR does not analyze another project, which includes some other widening on Lincoln Boulevard. This project, which the Commission will probably consider in

January 2002, 5-01-184, includes widening Lincoln between Hughes Terrace (LMU Drive) and Jefferson Boulevard to eight lanes and other work that can occur without replacement of the Lincoln Boulevard Bridge over Ballona Creek. This project is also described as “between Sepulveda Boulevard and Fiji Way”. Widening Lincoln Boulevard is a required mitigation measure for the First Phase of Playa Vista, which Playa Capital is financing. Caltrans’ decision to present widening one road as two projects (a financial decision) has proved very confusing, because the description sounds the same and the area of work sounds the same, but each project involves different work.

Caltrans has submitted an application, 5-01-038 for a grade separation and bridge at Culver Boulevard and Route 90, bridging over Culver Boulevard at the Coastal Zone boundary. This application has been withdrawn and will be resubmitted with a goal of being heard in January. Playa Capital is only contributing its proportionate share of the cost of the Culver/Route 90 Bridge, because demand generated by Playa Vista is not the only reason that the bridge is needed. Playa Capital is paying for the design work of the Route 90 bridge and cannot proceed with an identified part of its project, until the grade separation is complete, but the bridge is required because of traffic demand generated by many sources, not only Playa Vista; Caltrans will pay for construction of the Route 90 bridge. (See traffic discussion Section I, Local Coastal Program, below, and also Exhibits 16-22.)

## **B. PROJECT BACKGROUND.**

As described below, the proposed road improvement is a required mitigation measure for the first phase of a much larger project. The 280 acre first phase includes two tracts located outside the Coastal Zone and A Freshwater Marsh/flood detention basin inside the coastal zone (5-91-463) (See Table I, below). The City approved these tracts in 1995. Most of the first phase development is located outside the Coastal Zone, including all Phase I residential, commercial and office structures. Some road and drainage facilities to serve Playa Vista Phase I are located within the Coastal Zone. These include: (a) this proposed widening of Culver Boulevard, (b) widening along Lincoln Boulevard (approved as 5-99-139), (c) the construction of 26.1 acre freshwater marsh restoration, 5-91-463(Maguire Thomas), and (d) other minor road widening and intersection improvements, including a changed intersection configuration at Culver and Jefferson within Area B. Development of the approved residential and commercial units outside the Coastal Zone cannot proceed without construction of this road-widening project. The standard of review for this road-widening project is whether or not it is consistent with Chapter 3 of the Coastal Act. The Commission cannot approve the road widening because it is a required mitigation measure for an approved project outside its jurisdiction, or deny the road widening based on its assessment of a project that is located outside the Coastal Zone.

The Playa Vista Project has long been controversial because of its size and intensity and because of the presence of wetlands. The Department of Fish and Game has identified 196.53 acres of wetlands on the Playa Vista property, including the 3.47 acres identified

by the Corps in Area D. (Area D is located outside the Coastal Zone.) Because the historic wetland was much larger than the presently identified wetland, the extent of the wetlands is also subject to controversy. In 1984, the Department of Fish and Game identified 2.5 acres of wetland in Area C (the northwest quadrant of Playa Vista.) This road widening is proposed in the southwest corner of Area C and along the entire south side of Culver Boulevard, which bisects Area C.

Most of Area C is owned by the State. The most immediate controversy in this case is whether the project is an appropriate use of State property. The State and Playa Vista agreed that Playa Vista had a right to purchase Area C for an agreed sum before December 31, 2000. After December 31, 2000, the right became a right of first refusal, which would last until December 31, 2005. Playa Vista failed to purchase Area C by December 31, 2000.

Because the applicant no longer has an automatic right to purchase it, Area C is now under consideration for development as a public park. Although development as a park requires an act of the legislature the Controller has advocated the transfer and the legislature is discussing the matter. Because of this interest, this report will address how adding a lane to the road and ramps connecting to Lincoln Boulevard and the Marina Freeway would impact the development or operation of a park. The Commission will also consider whether the widening of the road could impact habitat recovery efforts on the site.

Due to the presence of a small (2.5-acre) mapped wetland on the north side of Area C, the public has also raised issues whether the road and ramp building could impact that wetland and or other areas that are not mapped wetlands. The proposed project does not fill or drain into any of the mapped wetland areas on the project site.

In May 2001, the Commission's staff biologist visited the area of mulefat located within the ramp footprint and determined that that area is wetland. Facing a recommendation of denial, the applicant withdrew the permit application and redesigned the project. The applicant has now redesigned the ramp so that no wetland fill is involved. Opponents have also raised concerns that runoff from the road widening will adversely impact Ballona Creek or the drainage course found north of Culver Boulevard (mapped as the Marina Drain on flood control maps). The new road area will not drain to the Marina Drain or the patch of Salicornia that constitute the mapped wetlands found on the site. Some runoff from the widened road, like the existing road, will continue to drain into the small patch of mule fat. Staff is recommending filters to reduce pollutants from the road in this area. In response to concerns that the increased runoff will carry additional polluted waters into Ballona Creek, the applicant is proposing an extended detention/biofiltration basin to filter runoff from the road, which will then discharge to Ballona Creek. The drainage basin will be vegetated with wetland plants so it can provide both bio-remediation and habitat. Staff is recommending special conditions that will set standards for the capacity and design of that facility, as well as the methods employed for filtration.

The project involves the removal of about five acres of upland vegetative cover. Even though introduced annual grasses and weeds dominate the roadsides; they do provide shelter and some food for birds and other animals. The applicant is proposing to revegetate the 0.57-acre extended detention/biofiltration basin and the roadside areas adjacent to Culver Boulevard and also to newly widened Lincoln Boulevard. In order to assure (1) continued provision of habitat and (2) to assure that the new landscaping will not invade areas slated for restoration, staff is recommending that the plant material used in the road side areas use mostly native plants, and any non-native plants be drought-tolerant and non-invasive.

The project is located in an area underlain by oil and gas bearing sediments, which release gas through the soil. There are measurable levels of thermogenic soil gas within the area, although most recent surveys indicate that concentrations of soil gas in the immediate area of the proposed road are not hazardous. Soil gas levels in Area C are lower than those found in nearby Area D, which is located out of the coastal zone and south of this project. The City of Los Angeles has required the applicant to collect and vent soil gas under buildings in Area D, opponents have raised concerns that a road in Area C, a half a mile north, might also be subject to dangers from soil gas build up. Soil gases are dangerous when they build up in enclosed spaces and are then mixed with oxygen. The City of Los Angeles standards for protection of structures from soil gas exempt small structures and unenclosed areas from the burden of collecting and venting gases because dangerous concentrations of soil gases cannot build up in unenclosed areas or in small frame structures. The staff geologist has concurred with City's exemption of roads (exhibit). The staff of the Department of Public Works indicates that the City has not experienced problems with soil gas under roads, even in areas where structures are required to collect and vent methane. The staff geologist has reviewed the available reports and concurs that construction of the road will not raise dangers from soil gas. A long awaited report from the City Legislative Analyst indicates that Area C is not subject to high levels of soil gas except in one location, an abandoned oil well, located north of the roadway. The well showed a low level and is not expected to be hazardous. The City survey does not show elevated levels anywhere else in Area C. (Exhibit). No underground deposits or gas reserves were detected in Area C by the City legislative analyst study that was carried out in 2000. (See substantive file documents and exhibit).

The project will impact two mapped archaeological sites. Exploration and recovery of those sites is authorized in a programmatic agreement between the applicant, the US Army Corps of Engineers and the State Historic Preservation Officer that the Commission reviewed in approving 5-98-164. Exploration of these sites, but not recovery, is authorized in Coastal Development Permit 5-98-164. As a result of exploration, the applicant's archaeological recovery consultant determined that one site does contain cultural deposits. An archeological treatment plan is also on the November, 2001 agenda (5-98-164A.) The staff is recommending below that his project be conditioned such that construction in the area of the site cannot begin until treatment is complete. Staff

recommends that the recovery be completed and the reviewing agencies determine that no further exploration is necessary before the issuance of the present permit.

### **C. RIGHT OF THE APPLICANT TO SUBMIT THE APPLICATION**

Section 30601.5 of the Coastal Act allows a party to apply to the Commission to develop a piece of property over which the applicant is not the owner of a fee interest, without the owner of any superior interest joining as a co-applicant, provided that the applicant can demonstrate its legal right to use the property for the development. If the applicant does not own the property, however, the Commission must contact the legal owner and invite it to be a co-applicant.

Section 30601.5 States:

Where the applicant for a coastal development permit is not the owner of a fee interest in the property on which a proposed development is to be located, but can demonstrate a legal right, interest, or other entitlement to use the property for the proposed development, the Commission shall not require the holder or owner of any superior interest in the property to join the applicant as co-applicant. All holders or owners of any other interests of record in the affected property shall be notified in writing of the permit application and invited to join as co-applicant. **In addition, prior to the issuance of a coastal development permit, the applicant shall demonstrate the authority to comply with all conditions of approval. (Emphasis Added)**

Section 13053.5(b) of Title 14 of the California Code of Regulations requires that an applicant for development shall provide documentation of its “legal interest in all the property upon which work would be performed, if the application were approved, e.g., ownership, leasehold, enforceable option, [or] authority to acquire the specific property by eminent domain.”

United States Trust Company of California, N. A. (“U.S. Trust Company”) holds title to the greater part of Area C in trust, for benefit of the State of California. In asserting its right to develop the proposed improvements, Playa Capital provided an easement agreement between its predecessor in interest, Maguire Thomas-Playa Vista, and the U.S. Trust Company. It also provided a letter from the Los Angeles County Department of Public Works granting permission to work on the loop road and on the land within the loop and tax bills for land that was previously owned by the Pacific Electric Railroad. The applicant has also provided an agreement with Caltrans that allows it to encroach on the highway to install the ramps connecting to the Marina Freeway (California Department of Transportation (CALTRANS), Encroachment Permit 798-6MC-0618; Encroachment Permit Rider 700-6RW-2956, November 8, 2000.) To make it easier to understand the location of land owned by the various owners involved, the applicant also provided a map

incorporating this information (Exhibits). Finally, both the applicant and the Commission have contacted the U.S. Trust Company and invited it to be a co-applicant, pursuant to Section 30601.5.

The history of the land is as follows. When the previous owner of the property, Howard Hughes, died, his successor in interest, Summa Corporation, and the State agreed that the State would take Area C in lieu of part of the amount due in estate taxes. In a Security Agreement, dated August 29, 1984, and subsequently amended, the State also agreed that the Summa Corporation or its successors could buy back the land for an agreed on sum. In three amendments executed with Summa and successors in interest, which include Playa Capital, the amount was adjusted and the date was extended to December 31, 2000. After that time, the State would no longer be obliged to sell the property back to Summa's successor. However, Summa or its successor would retain a right of first refusal if the property were sold within five years of December 31, 2000. The Security Agreement, and subsequent amendments, gave Maguire Thomas-Playa Vista certain rights to fence, test, maintain and propose development on the Area C property. As the Controller and the public have pointed out, that agreement expired on December 31, 2000. Thus, at this time, Playa Capital no longer has a right to buy the property, but it does retain a right of first refusal if the property were sold within five years of December 31, 2000.

Independent of that agreement, in 1990, the U.S. Trust Company and the developer, Maguire Thomas Partners-Playa Vista, recorded an easement over the property granting Maguire Thomas (Summa's initial successor) or its partners or successors an easement to build certain road and infrastructure improvements. The applicant, Playa Capital Company, LLC, is Maguire Thomas-Playa Vista's successor.

The Commission notes that there is an executed offer to dedicate some of the land necessary to develop the Culver widening project. The applicant has provided documents indicating that on November 4, 1998, Sandee Parks, an executive with US Trust signed an offer to dedicate land necessary for the loop ramp to the City of Los Angeles (Exhibit). Los Angeles County already owns the land inside the existing loop and the loop itself, according to tax records and the Los Angeles County Public Works Department (Exhibits.) Some land necessary for the connector ramps to Route 90 are located on former Pacific Electric Railroad right-of-way owned in fee by the applicant. However, the applicant's representative agrees that additional land adjacent to Culver Boulevard, east of the ramp and west of the Marina Freeway that is required to accommodate weaving and transition lanes is not yet offered for dedication. Irrespective of the offers to dedicate, the applicant's right to develop that portion of the project derives from the Easement Agreement.

Completion of the Culver Boulevard project and the associated archaeological recovery, however, will require the use of some land where development of roads and utilities will be dependent on the Easement Agreement.

On May 14, 2001, the State Controller wrote the Commission Chair, stating in part:

“My office is opposed to any roads constructed or expanded on this parcel. As you know, this property is currently being held in trust for the benefit of the State of California. Moreover, efforts are currently underway to transfer the entire 73-acre parcel to the California Department of Parks and Recreation. Given that my office is entrusted with the responsibility and stewardship of this land until such time as we can transfer it to the Department of Parks and Recreation, I am notifying you that any purported consent previously given by my office to the applicant for the purpose of constructing or expanding roads on Area C is hereby withdrawn. Any such consent would have been premised upon Playa Capital exercising its option to purchase the 73 acres in issue. The option expired December 31, 2000, and was not renewed.” (See Exhibit 25)

In asserting its rights to develop the road, the applicant provided documents as listed below.

1. Security agreement regarding Area C between Kenneth Cory, State Controller and Summa Corporation, 1984, with first through fourth amendments.
2. Copy of October 30, 1998 correspondence from Chief Deputy Controller to U.S. Trust Company of California with attached irrevocable offer to dedicate.
3. Easement agreement by and between Maguire Thomas Partners—Playa Vista and U.S. Trust Company, dated August, 30, 1990. (Exhibit 29)
4. Map and conditions of approval, Tentative Tract Number 44668, City of Los Angeles, May 4, 1987.

The applicant asserts that the Easement Agreement survives the termination of the Security Agreement, and the 1990 easement authorizes improvements that are defined in Section I.A.4, Page 3 of the Easement Agreement and Section I.A.6 of the Easement Agreement (Exhibits 26, 29)

In an August 9, 2001, letter to the Controller, the applicant’s attorney, George Muhlstein asserted in part:

“[Y]our May 10<sup>th</sup> letter regarding Playa Capital’s ability to process the Coastal Development Permit applications are unfounded for the following reasons:

- “The U.S. Trust Company of California (“USTCC”) is the legal owner of Area C. It holds such property for the benefit of the State of California pursuant to and subject to the restrictions set forth in that certain amendment to Declaration of Trust dated December 11, 1984.

- “Area C is subject to a recorded easement agreement, dated August 30, 1990 (“Easement Agreement”) ...This Easement Agreement, which by its express terms is a perpetual and irrevocable burden on Area C, remains in full force and effect. ...
- “Under the Easement Agreement, Playa Capital is entitled to enter upon Area C to plan and construct various roadway and other infrastructure improvements and has the right upon completion of such improvements to request that USTCC execute and deliver irrevocable offers to dedicate such improvements to the City of Los Angeles or other appropriate governmental entities. Playa Capital's rights under the Easement Agreement are not subject to any prior discretionary consent from USTCC, nor is USTCC required to seek the consent or approval of any other person or entity (including the Controller of the State of California) as a condition to Playa Capital's exercise of such rights. In addition, such rights are not subject to or in any respect dependent upon the status of the September 28, 1990 agreement, sometime referred to as the “Area C Option Agreement” among the USTCC, MTP-PV and Maguire Thomas Partners-Playa Vista Area C
- “On November 4, 1998, USTCC executed an irrevocable offer to dedicate land within Area C for improvements to the Lincoln Culver loop ramp system and the widening of Culver Boulevard. Such offer to dedicate has not been modified or withdrawn and, since it is irrevocable, cannot be.
- “USTCC has been advised by Playa Capital, pursuant to Section 30601.5 of the California Coastal Act, that Playa Capital has filed Coastal Permit Application No.'s 5-00-400 and 5-01-107 and an application to amend Coastal Permit No. 5-98-164 with the California Coastal Commission. USTCC has not objected to such proceedings and has declined to participate as a co-applicant therein.

“Further, under the September 28, 1990 agreement between the Controller's office and Playa Capital's predecessor, the Controller's office promised to cooperate with Playa Capital's predecessor in effectuating applications for traffic improvement permits. See Controller's Agreement Art. 1, Section 1.1. The rights under this agreement were assigned to Playa Capital in October 1997. See Controller's Agreement, Art. 5, Section 5.1. ...” (See Exhibit 26 for entire text.)

Again, Section 30601.5 of the Coastal Act provides the following:

“Where the applicant for a coastal development permit is not the owner of a fee interest in the property on which a proposed development is to be located, but can demonstrate a legal right, interest, or other entitlement to use the property for the proposed development, the Commission shall not require the holder or owner of any superior interest in the property to join the applicant as co-applicant. All holders or owners of any other interests of record in the affected property shall be

notified in writing of the permit application and invited to join as co-applicant. In addition, prior to the issuance of a coastal development permit, the applicant shall demonstrate the authority to comply with all conditions of approval.”

Thus, it is not necessary for the Controller's office, as owner of the property, to join as a co-applicant in this application. Indeed, as indicated above, the Controller's office may not even need to approve of the proposal, if the applicant can demonstrate its legal interest in the property.

Again, under Section 30601.5, the applicant must demonstrate a legal right, interest, or other entitlement to use the property for the proposed development. That section also states, in part:

In addition, prior to the issuance of a coastal development permit, the applicant shall demonstrate the authority to comply with all conditions of approval.

Pursuant to section 13053.5(b), Title 14 of the California Code of Regulations, an applicant must provide: “A description and documentation of the applicant's legal interest in all the property upon which work would be performed, if the application were approved, e.g., ownership, leasehold, enforceable option, authority to acquire the specific property by eminent domain.”

In this case, the Controller's assertion that any approval given for use of the State trust property is revoked has created a dispute regarding the applicant's legal right to carry out the project and/or comply with the required conditions of approval. The applicant's representative has now responded to the Controller's initial assertion, and the Commission finds no basis on which to disagree with that response. In addition Commission staff consulted with the California Attorney General's office and received confirmation of its interpretation of the relevant documents. In sum, the Commission finds that the applicant has provided sufficient evidence of its right to complete the project in compliance with Section 30601.5 of the Coastal Act or Section 13053.5(b) of the Commission's regulations for the Commission to proceed with the processing of the instant application.

In addition, the Commission notes that it has deferred final action on this case for a number of months while the applicant revised its project to address Coastal Act issues. The Commission further notes that in the intervening period there has been progress made on the larger issue raised by the Controller, the issue of reserving a significant additional portion of the Playa Vista property for public use and habitat protection.

Approval of other owners. The City of Los Angeles owns Culver Boulevard. Much of the actual loop in this revised plan is located on land that is owned in fee by the Los Angeles County Department of Public Works. The Connectors to the Route 90 freeway will encroach on land owned by Caltrans. When the City annexed Playa Vista in the mid-eighties, transfer of the loop road, and the area which it encircled, which were owned by

the County, was not completed, although the County had agreed to transfer all roads to the City (See Exhibits 27 and 28.) What seems to have happened is that the County transferred Culver Boulevard, but did not transfer the loop road, the land within the loop or the supporting slope (about 2.59 acres) to the City. Thus, in addition to the U.S. Trust Company, the City of Los Angeles, the County Department of Public Works, and the State Department of Transportation (Caltrans) all have some ownership interest in the land on which the development is proposed to occur (Exhibit 27.)

The applicant has provided an approved encroachment permit from Caltrans. The Los Angeles County Department of Public Works has issued a letter approving the road as well, and has agreed to record an easement allowing the applicant to construct the road. Jay Kin, Senior Transportation engineer at the City of Los Angeles Department of Transportation has written a letter approving the road as revised, and will issue a "B" permit when final working drawings are approved. Upon issuance of a "B" permit, the equivalent of a building permit, construction can begin. The Commission therefore finds that the applicant has received the authorization needed from the owners to apply for this road, pursuant to Section 13053.5(b), but until the applicant has a recorded easement from the County and a permit from the City, the applicant will not have the power to actually construct the road or to comply with the Commission's conditions. Therefore, Special Condition 11 requires the applicant to provide a "B" permit (which allows work on City streets,) and a recorded easement from Los Angeles County before the work can start.

Los Angeles County Department of Public Works has issued a letter approving the road, and has agreed to record an easement allowing the applicant to construct the road. The Commission finds that the applicant has received the authorization from the owner to apply for this road, but until the applicant has a recorded easement from the County, the applicant will not have the power to construct the road or comply with the Commission's conditions. Therefore, Special Condition 11 requires the applicant to provide a "B" permit (which allows work on City streets,) and a recorded easement from Los Angeles County before the work can start. The applicant has provided an approved encroachment permit from Caltrans.

#### **D. MARINE RESOURCES**

The project is proposed in an area that included a historic wetland. The project will also drain into Ballona Creek, which is an estuary. A previous design of this loop road would have resulted in fill of an area that the Commission's Senior Staff Biologist has identified as a wetland. The applicant withdrew the coastal development permit application for that project and has now revised the project so that it does not fill either the wetlands identified by the resources agencies or the small wetland area identified by Commission staff.

Sections 30230, 30231 and 30233 of the Coastal Act state:

Section 30230.

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231.

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30233

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.

(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.

(3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland.

(4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

(5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

(6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

(7) Restoration purposes.

(8) Nature study, aquaculture, or similar resource dependent activities.

(b) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable long shore current systems.

(c) In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary. Any alteration of coastal wetlands identified by the Department of Fish and Game, including, but not limited to, the 19 coastal wetlands identified in its report entitled, "Acquisition Priorities for the Coastal Wetlands of California", shall be limited to very minor incidental public facilities, restorative measures, nature study, commercial fishing facilities in Bodega Bay, and development in already developed parts of south San Diego Bay, if otherwise in accordance with this division.

## **WETLANDS IDENTIFIED IN 1984 BY THE DEPARTMENT OF FISH AND GAME**

In 1984 (and again in 1991) the Department of Fish and Game identified 2.5 acres of wetland in Area C (Exhibit 11, p6). The identified wetland areas constitute a drainage channel (the Marina Drain) that flows into the Marina del Rey and also a patch of Salicornia near the northwesterly corner of Area C (Exhibit). The drainage channel is an identified Corps wetland. It flows in a culvert under Lincoln Boulevard into a similar channel in Area A that drains, through another culvert into Marina Basin H. Any fish found on the site would reside in this channel that has water. The widened road will not encroach into either of these identified wetlands; in fact both are north of Culver, while the

widening and the ramps are south of Culver. The proposed street drains will drain into the Ballona Creek and not to the Marina Drain or the patch of Salicornia identified elsewhere.

#### **WETLANDS RECENTLY IDENTIFIED BY THE SENIOR STAFF BIOLOGIST**

This area was historically part of the Ballona wetlands. It was farmed as late as the 1950s. In the 1960's, construction activities in surrounding areas disturbed the site, which received considerable amounts of fill, probably at different times and from different sources. The site is now surrounded by low knolls formed by the levee for Ballona Creek, road embankments, and the twenty-foot high mound of fill south of Culver Boulevard between Culver Boulevard and Ballona Creek that is occupied by Little League ball fields. There is a depression west of this mound, and east of the present ramp. This depression supports a mix of native and exotic vegetation. The dominant vegetation is comprised of weedy exotic species characteristic of disturbed areas. There are also several small stands of mulefat (*Baccharis silicifolia*), a typically riparian species. Nine other species which are tolerant of wet conditions are present at the site, the most common being bristly oxtongue (*Picris echioides*) and curly dock (*Rumex crispus*). Mulefat is a native plant that grows along streams, on the borders of wetlands and in areas that are seasonally wet. Bristly oxtongue is found sometimes in wetlands, and sometimes in uplands. Curly dock is generally found in wet areas, but is also common in seasonally moist upland situations. All three of these species are wetland facultative plants, which means that they tolerate wet and saturated habitats, but are not dependent on them. They also are found in areas that are not wetlands or along stream banks.

Under the Cowardin method of wetland delineation, a method used by the Department of Fish and Game in California, a site is a wetland if one of the following applies:

- 1) the land is periodically inundated or saturated, or
- 2) the soils are predominantly hydric (soils that are periodically anaerobic due to saturation), or
- 3) the predominant vegetation is adapted to life in saturated soil conditions.

In its regulations, the Commission defines wetlands

13577(b) Wetland ...Wetlands shall be defined as land where the water table is at, near or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes, and shall also include those types of wetlands where vegetation is lacking and soil is poorly developed or absent as a result of frequent and drastic fluctuations of surface water levels, wave action, waterflow, turbidity or high concentrations of salts or other substances in the substrate. Such wetlands can be recognized by the presence of surface wet or saturated substrate at some time during each year and their location within or adjacent to vegetated wetlands or deepwater habitats. For purposes of this section, the upland limit of a wetland shall be defined as:

- (A) The boundary between land with predominantly hydrophytic cover and land with predominantly mesophytic or xerophytic cover;
- (B) The boundary between soil that is predominantly hydric and soil that is predominantly non-hydric; or
- (C) In the case of wetlands without vegetation or soils, the boundary between land that is flooded or saturated at some time during years of normal precipitation and land that is not.

So, the presence of either water on or near the soil surface, predominantly wetland vegetation, or predominantly hydric soils defines wetlands. The presence of only one indicator is enough--if the plants are there; the soils do not have to be hydric for an area to be defined as a wetland. In April 2001, the Commission Senior Biologist, John Dixon, identified a depression located directly east of the existing loop ramp that was dominated by Mulefat, as a wetland. Dr. Dixon is the wetlands coordinator for the Commission responsible for issues of wetland delineation and wetland restoration throughout the coastal zone. While the applicant disagreed with the determination, the applicant no longer proposes development or vegetation removal within this depression. After construction, storm water from Culver Boulevard will not flow into this area, but will enter the extended biofiltration basin. The Commission finds that extraordinary care must be taken both during and after construction to prevent siltation into the wetland and to assure that storm water that flows into it has been properly filtered. (Exhibits 6 and 15, 17.)

The applicant has now provided revised plans that tighten the radius of the loop. The new loop and the fill supporting it will extend down the present fill slope but will not extend into the wetland (Exhibits 3, 4 and 11.) After the applicant revised its plans, the project engineer staked the toe of the slope that is proposed to support the loop ramp. Dr. Dixon visited the site and provided the following analysis:

**“Culver Loop Ramp**

The new alignment for the Culver loop off-ramp at Lincoln was staked and flagged. The toe of the slope is well outside the area of mulefat that I previously concluded was wetland under the Coastal Act and Regulations.” --John Dixon, October 25, 2001 (Exhibit 14.)

The public has also raised concerns about the status of vegetation in several areas in a roadside ditch on the south side of Culver Boulevard between the present loop ramp and the Marina Freeway. The Senior Staff Biologist also visited this ditch, which is located at the toe of a slope supporting the Little League ball fields.

**Culver Boulevard Widening**

The strip of land immediately south of Culver between Lincoln and the Marina freeway is proposed for widening. In general, the vegetation is dominated by

weedy, non-native upland species. However, there are three areas where water might tend to flow or pond. The first is between the Culver loop and the entrance to the playing fields on the south side of the chain link fence adjacent to Culver. This is a gentle swale at the base of the slope below the playing fields. One section contains some facultative wetland plants. When the delineation<sup>2</sup> was done (May 8, 2001), this section was dominated by curly dock (*Rumex crispus*; FACW-), perennial ryegrass, and wild radish. On the day of our visit, the dominant vegetation was curly dock, bristly ox-tongue, and horseweed (*Conyza canadensis*; FAC). Other common species were castorbean (*Ricinus communis*; FACU), iceplant (*Carpobrotus edulis*; NI), perennial ryegrass, and morning glory (*Calystegia* sp.; gen. NI). There were no indicators of wetland hydrology or hydric soils. The second depressional area is just east of the entrance to the playing fields. The dominant vegetation was comprised of perennial ryegrass, bristly ox-tongue, fennel (*Foeniculum vulgare*; FACU-), castor bean, and wild oats (*Avena* sp.; NI). The third area is near the Marina freeway and is an excavated linear depression that was probably dug in fill and that containing construction debris. The ruderal vegetation in the excavated area was made up of wild radish, Chrysanthemum, castor bean, perennial ryegrass, fennel and bristly ox-tongue. The weedy, mostly exotic vegetation in all these areas is characteristic of disturbed areas and includes both upland and facultative wetland species. I concur with the conclusion of the wetland delineation that there are no areas qualifying as coastal wetlands in the project impact areas. John Dixon, October 25, 2001 (Exhibit 14.)

In testimony on Wednesday, November 14, 2001, members of the public announced that on November 2, 2001, a member of their group had found heliotrope (*Heliotropium curassavicum*), a wetland obligate plant, within the area encircled by the current Culver Boulevard Loop Ramp. The Culver Boulevard Loop Ramp is the site of part of the roadway and the biofiltration facility proposed in this project.

The Commission requested Dr. Dixon's opinion on whether the presence of heliotrope within the loop the indicated that all or part of the area was wetland. Dr. Dixon replied

The fundamental fact of wetlands is that they are wet. The soil is periodically saturated, or ponded, with water and anaerobic and therefore only hospitable to specially adaptive plants. The US Fish and Wildlife Service has compiled a list of such plants based on the field experience and best professional judgment of a committee of botanists, and the Service has given those plants special designations based on the frequency with which they are estimated to be found in wetlands. Obligate plants are estimated to have 99 percent of their occurrences in wetlands. Heliotrope is listed as an obligate plant and has been found in small clumps

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<sup>2</sup> Winfield, T.P. 2001. Delineation of coastal wetlands: Re-designed Culver loop ramp, expansion of Culver Boulevard, extension of Playa Vista Drive. A report to Playa Vista Corporation dated September 20, 2001 (Exhibit 17.)

scattered throughout the loop road site, which is intended as a retention basin. (Dixon, Transcript, page 200.)

Dr. Dixon explained, however, that the presence of an obligate species is not conclusive:

Now does the presence of these plants in this area make it a wetland? I do not think so, based on the photographs that I have seen, the topography and the vegetation analysis that has been done. The site is fill, and it is on a slope and as a result, it probably does not pond or saturate with water for significant periods of time. (Dixon, transcript, page 201)

Dr. Dixon also, in response to additional comments, described how a delineation is performed:

In wetland delineation, what one is looking for is what is the predominant vegetation. That is what it is, and in this kind of delineation and in this kind of situation the routine approach is to look within an area, five foot in radius and to list the five most dominant plants, the most abundant plant in that area and then to ask oneself are there greater than 50 percent of those plants wetland species. (Dixon, transcript, page 215)

In response to questions from the Commission, Dr. Edith Reed, the botanist who had conducted the plant survey for the applicant, stated that she had mapped this area as ruderal because of the dominance of upland weedy species.” She stated, “I recollect seeing heliotrope that but did not put it on the dominance list. It is very typically found in upland situations like this.”

Roy van der Hoek, the opponent who had observed the plants stated, in response to additional questions, that on November 2, [2001] he had found 15 individuals covering more that a five-foot diameter area. He had later looked them up and discovered that the US Fish and Wildlife Service lists marsh heliotrope as a wetland obligate plant.

In response to further questions, Dr. Dixon continued to describe the methodology used in California to delineate wetlands:

For California and for the Coastal Act and for the Department of Fish and Game the definition is different. In cases of both the federal and the state, the principle thing is water, whether the ground is saturated long enough for it to be anaerobic, and therefore fit mainly for specially adapted plants. The federal definition is linked to a methodology and they were developed together. The methodology calls for demonstrating that there are hydric soils, that there is hydrophytic vegetation and that there is a wetland hydrology—all [three elements]. There is no statutory methodology for California.

In practice, one uses the methods that have been developed by the Corps of Engineers that are in their '87 manuals. It is in the '89 manual and there is also guidance from the National Research Council and best professional judgment and, ultimately, this Commission decides what is a wetland. (Dixon, pages 215-216, transcript)

In preparing reports for this matter, Dr. Dixon reviewed technical documents on the methodology of wetland delineation and documents that had been prepared in the past in establishing wetland delineation in Playa Vista.<sup>3</sup> In a memorandum to the Commission Exhibit 15, he stated, in part:

In practice, the boundary is usually based on plants. Plants are generally considered hydrophytic if they are designated OBL, FACW, or FAC in a list compiled by the U.S. Fish and Wildlife Service.<sup>4</sup> The percentages of occurrences in wetlands are estimated to be > 99% for OBL, 66 – 99% for FACW, 33-66% for FAC, 1 – 33% for FACU, and < 1% for UPL species. Since the Coastal Commission only requires evidence of one of the three wetland characteristics (hydrophytic vegetation, hydric soils, or wetland hydrology), there is opportunity for error if the vegetation is dominated by one or two species that are also common in upland vegetation. ... This has led to the development of the so-called "FAC Neutral Rule" for determining the presence of hydrophytic vegetation. This rule does not utilize FAC species...in assessing the potential for hydrophytic vegetation, but weighs the abundance of OBL and FACW species against the abundance of FACU and UPL species." (Dixon, May 22 2001, Exhibit 15.)

Heliotrope is designated an obligate wetland species (OBL) in the U. S. Fish and Wildlife Service's list of wetland plants. The presence or absence of a single obligate species at a site, while providing important clues as to the location of wetlands, is not by itself a sufficient test for whether an area of is a wetland. None of the applicable standards for locating wetlands endorse looking only to the presence or absence of individuals of an obligate species. Instead all applicable standards require a delineation, which involves a comprehensive classification of all relevant species to determine which species are dominant. Thus, the presence of an obligate species alone may justify a delineation, but no accepted definition of wetlands includes the presence of a single obligate species as a sufficient condition. (See e.g. Corps of Engineers Wetlands Delineation Manual US

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<sup>3</sup> Dr. Dixon, in his May 22, 2001 report submitted to the Commission on this permit 5-01-382 and the related appeal A-5-PLV-00-417, cites several reports concerning the delineation of wetlands in the Playa Vista area; including (1) Huffman, T. 1986, Determination of the Presence of Aquatic and Wetland Habitat subject to Federal Regulatory Jurisdiction within Ballona Creek Land Tract; a report submitted to the USEPA, dated September 1986; (2) Sanders, D. R. and Straw, W. T., 1987: determination of waters of the United States in Areas A B and C Of Playa Vista and a Hydrological Study of Areas A, B and C at Playa Vista., 1987; (3) Straw, W. T., March 2000: A report submitted to Playa Capital: a Hydrological Study of Playa Vista Phase II Federal Project. Dr. Dixon also states: "The definition in the regulations was adapted from Cowardin, I. M. Carter, V., Golet, F. C., and E. T. Larue, 1979: Classification of Wetlands and Deepwater Habitats of the United States," Office of Biological Services, U.S. Fish and Wildlife Service Washington, DC. Dr. Dixon further states: "The definition of upland limits are identical to those of the Service. "

<sup>4</sup> Reed, P.B. 1988. "National List of Plant Species that Occur in Wetlands: National Summary." Biological Report 88(24). U.S. Fish and Wildlife Service, Washington, D.C.

Department of the Army, Vicksburg, MS (Jan., 1987) at 16-26). Also see the United States Fish and Wildlife language, noting that a wetland is land that is “supporting predominantly hydrophytes,” adopted by the Commission in its Wetlands Guidelines in 2/4/1981. Similarly, the Winfield report, dated 9/2001, discusses the identification of wetlands by the predominance of hydrophytic species, although questioning the applicability of the standard to the Mulefat Area (See Exhibit 17). Indeed, in this case, the Commission determined that the presence of an obligate species warranted a more exhaustive examination of the locations where heliotrope was found.

At the end of the day on November 14, 2001, the Commission continued the item and requested Dr. Dixon, to visit the site and provide the Commission with additional information with respect to the issues that had been raised. In deciding to request Dr. Dixon to conduct an initial visit, the Commission considered testimony from Dr. Dixon and of others present. The Commission was reluctant to continue the matter to the succeeding month for a report from an independent delineator until it had received a report from its staff because the Commission, the applicant and the public had devoted considerable time to the preparation for and conduct of the hearing. Without confirmation that there was indeed a wetland, the Commission was not willing to continue the item based on information provided at the last minute. However, the Commission determined that the reported presence of an obligate species warranted a more exhaustive examination of the locations where heliotrope was found.

Dr. Dixon visited the site on November 15, and inspected the site with representatives of Wetlands Action Network, the Sierra Club, John Hodder, a research biologist who had identified the “Mulefat Area” the previous spring, and the applicant. Dr. Dixon walked the entire site to assess the hydrology and vegetation. The group recorded every species of plant it identified at the site, including the locations of the plants. With respect to each location requested by any member of the group, Dr. Dixon assessed the vegetation by identifying and ranking dominant species.

On Friday, November 16, the Commission reconvened the hearing on application 5-01-382 and appeal A-5-PLV-00-417. The Commission received written and oral reports from Dr. Dixon, who indicated that the plant was present at several locations. Dr. Dixon stated, “At all sites, upland vegetation comprised more than 50 percent of the dominant species, the soils were sandy and without hydric indicators and there was no evidence of inundation. At P1 (one of the sampled sites) the greatest ground cover was contributed by heliotrope.” As indicated by the first clause in the immediately preceding quote, even in the area where heliotrope contributed more ground cover than any other single species (area P1), among the several dominant species present, the number of upland species was greater than the number of hydrophytic species, and therefore there was not a preponderance of hydrophytic vegetation. As for the one wetland-indicator species that was common in area P1, he noted that the obligate designation is probably not appropriate for heliotrope in this region. He concluded that in his opinion, the area is not a wetland. Thus, given that none of the sites exhibited wetland hydrology, hydric soils or a

predominance of wetland vegetation species, Dr. Dixon concluded that there are not wetlands at the subject site. (See pages 7-9, transcript November 16, 2001 and attached report.)

The Commission considered the evidence before it, including public testimony, and concluded that the loop should be set back from the "Mulefat Area" in order to be consistent with Section 30233. The "Mulefat Area" was brought to the Commission's attention by the public in April 2001, and confirmed as a wetland by Dr. Dixon in June of 2001. The Commission also concluded, the ramp could be constructed within the footprint of the Culver Loop area consistent with Section 30233 because no wetland fill would occur.

## **RUNOFF**

The applicant notes that the originally proposed addition of a loop ramp and widening of Culver Boulevard would increase the impervious surfaces in Area C from 2.53 acres to 7.40 acres (including future road areas) of the total project drainage area of 21.3 Acres. At the hearing, the applicant clarified this figure as it applies to the project before the Commission (50-01-382--A-5-PLV-00-417), indicating that the increase in impermeable area related to the Culver Loop and Widening project is 1.99 acres, not five acres. Moreover, impervious areas result in an increase in the volume and velocity of runoff, due in part to the loss of infiltrative capacity of permeable space. Runoff conveys surface pollutants to receiving waters through the storm drain system.

Pollutants of concern associated with the proposed roadway development include heavy metals (copper, zinc, and lead), oil and grease. Other pollutants commonly found in urban runoff include pesticides, herbicides, suspended solids, floatables, and bacteria. The receiving waters for the development, Ballona Estuary and Channel are listed on the State's current Clean Water Act section 303(d) list of impaired water bodies. According to that list, the following parameters are causing impairment: Heavy Metals, Pesticides, Chem.A, PCBs, Tributyltin, Trash, Enteric Viruses/High Coliform bacteria counts, toxicity and sediment toxicity. The applicant's consultant from GeoSyntec has examined the effect of the proposed development on the receiving waters, in part, relative to these parameters. A thorough discussion is provided in a GeoSyntec Consultants Report entitled "Stormwater System Water Quality Evaluation Report – Culver Loop Ramp and Widening" dated November 30, 2000, and signed by Eric W. Strecker, Associate GeoSyntec Consultants.

The proposed stormwater system involves a storm drain system comprised of catch basins (inlets) and pipes that convey runoff off the roadways, and an extended detention biofiltration basin, to be located in the center area of the loop ramp, which will detain and treat runoff from the Playa Vista Culver Loop Ramp and the Culver Boulevard Widening Project. The extended detention/biofiltration basin will drain to the Ballona Channel.

The proposed extended detention/biofiltration basin incorporates a series of earthen vegetated berms that will direct water through native vegetation. The basin will provide pollutant removal through settling and biofiltration functions. According to the applicant's consultant, the extended biofiltration system was chosen because of its "expected high effectiveness in achieving good stormwater effluent quality ... and because of the fact significant land area was available for such a facility in the center of the loop. The consultant believes that, when practical, above-ground facilities are preferable to below ground, because they typically have improved performance due to more enhanced removal mechanisms such as photo-degradation." The consultant also indicates that with such a system, maintenance needs, that is, the need to remove trash and floatables, and to periodically remove polluted sediments, are more visible. In response to comments on this issue, the applicant, at the hearing, requested that the special condition 9.A (2)(d) be modified to specify that trash catching devices will be included in both the inlets to the biofiltration basins as well as the outlets and that the applicant be required to install energy dissipaters at the outlets of all discharge points.

With respect to heavy metals, the consultant asserts that due to the significant over-design of the BMP, the planned design of the system to treat existing runoff which is mostly untreated today, as well as runoff from the new impervious surfaces (roads proposed for the area in the future), and the targeted efficacy of the BMP, cadmium and other heavy metal loadings from this area are expected to be reduced by the BMP, and the quality of stormwater discharged from the site will almost certainly improve. Many of the pesticides of concern such as DDT, and from the Chem A group Aldrin/dieldrin and toxaphene, endrin, heptachlor, and heptachlor epoxide are now either banned or no longer in general use. Therefore, the proposed development is not expected to introduce these constituents to stormwater from this project. Additionally, the applicant's consultant contends that paving and landscaping should, in general, help to contain any historical sources of the pesticides in developed areas. According to the consultant, PCBs are typically highly absorbed to particulates, thus the proposed Best Management Practice (BMP) (described in detail below) should be effective at reducing any minor concentrations which might be present. Tributyltin is found in anti-fouling paints for vessels and is not expected to be present in new urban development of this type. The proposed BMP is expected to collect trash and reduce levels of coliform bacteria. The consultant contends that levels of coliform bacteria can be reduced by over 50% in water quality basins (such as the proposed BMP described below).

The applicant considered the new development-related stormwater mitigation requirements adopted by the Los Angeles Regional Water Quality Control Board (RWQCB) (Resolution No. R-00-02 [January 26, 2000] and Final Standard Stormwater Mitigation Plan [SUSMP] as revised after the Water Resources Board's October, 2000 final order.) Based on the consultant's calculations, the extended detention/biofiltration basin designed as proposed, will be able to accommodate eight (8) times the required minimum detention volume (3/4 of an inch in 24-hours) pursuant to the LA SUSMP

requirements. The Commission Senior Civil Engineer, Lesley Ewing, reviewed the plans of the 0.57 acre extended biofiltration basin revised to accommodate the revised ramp configuration and associated hydrology calculations. The review was necessary because this basin is smaller than the extended biofiltration basin submitted to the Commission in the spring of 2001. She concluded: "the reduced drainage basin and the smaller connector are large enough to handle the runoff from the 85<sup>th</sup> percentile storm event." All runoff from Culver Boulevard will now be directed through this basin and then into Ballona creek. (See also Exhibits 1 and 19.)

Prior to the applicant's modification of its proposal on appeal, and submittal of the revised application, 5-01-382, the Commission scheduled a hearing on an earlier version of the current proposal, for its June 2001 hearing. Having already found that the City-issued coastal development permit to raised substantial issues with respect to conformity with Chapter 3 of the Coastal Act, the Commission was scheduled to conduct a de novo review of that permit, as well as to review the dual permit application submitted by the applicant directly to the Commission (5-00-400). The project before the Commission at that time (the project that had been approved by the City and that was proposed in the same form in application number 5-00-400) involved constructing the ramps in a different location, which would have involved the fill of some wetlands. Just prior to the hearing, the applicant withdrew its application and postponed the hearing on its appeal. When the applicant subsequently submitted the current application (5-01-382) and amended the description of its approved project, the proposal no longer involved any wetland fill.

Due to the withdrawal, the Commission did not hear this matter in June. However, the Commission did receive a letter from Steve Fleischli, of the Santa Monica BayKeeper, in response to a public notice that these items had been scheduled. (Exhibit 18.) That letter objected to the prior version of the project on several bases, including the fact that it would have involved wetland fill. However, not all of the issues raised by the letter became moot when the proposal was restructured. The letter also states:

- 1) "this is one of the best places where protection and restoration will be possible in the near term" and,
- 2) "it is illegal to allow any additional pollutants from runoff in the Ballona Creek, if such pollutants are identified as causing impairment"

In issuing a coastal development permit the standard of review is Chapter 3. Other agencies, including the City of Los Angeles have the responsibility of enforcing other state laws. In this case the applicant withdrew an earlier design of the loop ramp that would fill a wetland area. In this action, the road and loop and extended biofiltration basin are located on fill. The extended biofiltration basin will actually create habitat in an area that is now depauperate, removing some fill that is presently there. Therefore this development does conform to the mandate to restore water quality where possible.

In response the second concern is that it is illegal to allow any additional pollutants from runoff in the Ballona Creek, if such pollutants are identified as causing impairment

- a) To the extent that the BayKeeper is arguing that the Clean Water Act prohibits this development, that issue was already addressed in the initial appeal, and the Commission found that argument to raise no substantial issue; thus, this is no longer before the Commission;
- b) In any event, the current version of the proposed project will result in a net *decrease* in pollutant loading to the receiving waters, including loadings of contaminants of concern as indicated by the 303(d) list; thus, as a factual matter, the project is NOT allowing additional pollutants into impaired receiving waters;
- c) Finally, although BayKeeper claims it is illegal to allow this construction, it has cited no legal prohibition on the issuance of a Coastal Act permit, and we are aware of no other relevant prohibitions.

The BayKeeper does cite a Clean Water Act (CWA) requirement that does "prohibit non-storm water discharges into the storm sewers." 33 U.S.C. section 1342(p)(3)(B)(ii). That section says is: "Permits for discharges from municipal storm sewers shall include a requirement to effectively prohibit non-stormwater discharges into the storm sewers." Thus, it requires that a specific provision be included in municipal stormwater permits. It is true that 40 CFR section 122.26(b)(8) defines municipal storm sewers to include state-owned road systems. Moreover, the State Water Resources Control Board has already issued such a permit, on July 15, 1999 (ORDER NO. 99 - 06 - DWQ; NPDES NO. CAS000003).

However, the City of Los Angeles and Los Angeles County, not the State, own Culver Boulevard and the loop. In any event the development conforms to the state water quality standards, which prevent any development that would **increase** the discharge of pollutants into an impaired water body. The project as proposed by the applicant and as required by conditions 1 and 9, diverts all present Culver Boulevard storm water into the extended biofiltration basin and, before discharging it into the basin, filters the water of most storms (up to an 85<sup>th</sup> percentile storm.) Therefore the project improves the quality of water discharged into Ballona Creek.

The Commission finds, however, that the performance of an extended detention biofiltration basin as a water quality treatment BMP intended to "treat" the capture volume, is dependent upon a variety of design influenced factors. It is critical to provide sufficient drawdown time for the capture volume, in order to produce a treatment function, which will occur through settling of solids and biological uptake through vegetation. According to the California Stormwater Best Management Practice Handbooks (1993), research demonstrates that a drawdown time of 24-40 hours for an extended detention basin, generally results in a removal efficiency of 60-80%. However, 40 hours is recommended in order to settle out the finer clay particles in California sediment that typically absorb toxic pollutants. In this case, due to the state of the receiving waters (parameters of

impairment include toxicity and sediment toxicity), and due to the feasibility based on basin design, the Commission finds a 40-hour drawdown time is appropriate, although the time may be extended if necessary to support wetland plants within the basin. The design specifications required by Special Condition 1 are based on recommendations contained in the California Stormwater BMP Handbook Municipal Volume (1993), project and site specific considerations described above. The Commission finds that if properly designed, extended detention/biofiltration basins can be very effective at removing constituents such as sediment, nutrients, heavy metals, toxic materials, floatables, oxygen demanding substances and oil & grease.

Further, the Commission finds that the use of vegetation combined with detention, as proposed, will significantly enhance the efficacy of the BMP by allowing biofiltration to occur. The value of this function is expected to offset potential impacts of vegetation maintenance. The offset will only occur if native wetland plants are used in saturated areas and native drought tolerant vegetation is used on the upper berms, coupled with an efficient low flow irrigation system, if such a system is necessary. In addition, Integrated Pest Management (IPM) techniques must be employed to avoid the release of toxic materials generated by the system itself. Integrated pest management techniques are more fully described below. These provisions are critical to reduce potential impacts, which could otherwise be associated with landscaping, such as the application of fertilizer and pesticides, which are sources of pollutants such as nutrients and organo-phosphates. It should also reduce intensive irrigation, which can also result in runoff, a carrier for pollutants.

The applicant proposes to commit to "minimizing the use of pesticides and herbicides through the use of native vegetation in much of the landscaping of the right-of-way and the BMP area (the loop) itself, and through careful and minimal applications and storage of any such materials". In fact, in this case, the applicant has agreed not to employ highly toxic or persistent pesticides to kill insect predators.

The Commission finds the use of native or adapted vegetation greatly reduces the need for intensive irrigation, which in turn reduces the potential for excessive irrigation to result in nuisance runoff from the site. Therefore, Special Condition 2 requires vegetation selected for landscaping to be native wetland vegetation within the saturated area of the basin and native drought-tolerant species with some adapted non-invasive material along roadsides. Additionally, any irrigation system used is required to be efficient; this will serve to prevent excess irrigation and resulting nuisance runoff from occurring. Plants that are well suited to regional conditions most often do not have to be sustained with heavy fertilizer or pesticide applications.

The Commission also finds that the use of native and drought-tolerant or adapted non-invasive vegetation will minimize the need for topical agents such as fertilizer and pesticides, thereby minimizing pollutants susceptible to stormwater and nuisance runoff from the site. However, due to the impaired state of the receiving waters, the Commission

finds that the applicant should pursue all feasible opportunities to further reduce the potential for the development to contribute pollutants to Ballona Creek and Estuary, particularly those parameters that have been cited as causing impairment to the waters.

The proposed use of native vegetation is an opportunity to use an Integrated Pest Management (IPM) Program. Alternative pest control techniques such as Integrated Pest Management and/or the use of non-toxic products can be effective in maintaining native or adapted vegetation, and therefore a potentially feasible option. IPM is an integrated approach, which combines limited pesticide use with more environmentally friendly pest control techniques. The goal of IPM is not to eliminate all pests, but to keep their populations at a manageable number. Pesticides can be a part of IPM techniques, but they are used in small quantities and only after all other alternatives have been reviewed. In this location next to a wetland, highly toxic and persistent chemicals should not be used, even if on occasion, plants sustain some damage. Therefore, Special Condition 1 requires the development and implementation of an IPM program for landscaping maintenance.

#### SILTATION DURING CONSTRUCTION.

Third, constructing a road adjacent to a wetland could result in siltation into the wetland. Any siltation could change the quality of the wetland areas, even obliterate them, especially given the shallow water found in the Marina Drain, and the sensitivity of the mulefat site to a possible change in ground elevation. Again discharge of toxic materials could harm the wetlands. The Commission requires numerous conditions to confine vehicles, stockpiles and fuel in identified zones of construction disturbance. The purpose of the condition is to avoid impacts on the wetlands and to prevent unplanned driving, storage or parking in the adjacent wetlands including the small wetland area identified by staff. The conditions require the applicant or its contractors to prevent discharge of solids, earth, silt or harmful materials including fuels, debris or construction materials into the small wetland area identified by staff or into other wetlands, such as the Marina Drain. The applicant proposes to use standard sand bagging and other siltation control methods such as covering stockpiles and to use watering to reduce fugitive dust.

A concern when excavating near a road and in an area that has been used to dispose of dredge spoils or construction debris over the years is the handling of older, contaminated sediments during construction. The applicant has not provided a system of testing the earth removed and has explained where and how it intends to dispose of excess asphalt and any contaminated excavated earth. Area C is the site of an oil well and the area used to dispose of dredge material during the excavation of the Marina del Rey. During the excavation of the Freshwater Marsh that is located in area B. some contaminated sediments, drilling muds, were discovered. The coastal development permit did not anticipate or address this problem. Instead it established elevations of the completed project and standards for the marsh's functioning after construction and revegetation. However, the Regional Water Quality Control Board required Playa Capital to truck the sediments to various landfills outside the coastal zone. The Commission in this case

requires testing of sediments, and imposes certain standards for the removal and stockpiling of any toxic material found on the site. However the determination of whether any soils are toxic and which dump should appropriately receive it remains in the jurisdiction of the RQWQCB and the DTSC.

Again, with conditions to address construction methods and handling of contaminated sediments, to ensure the appropriate design and maintenance of the structural BMPs, and to require the provision of detailed erosion and siltation control plans, this project would conform to Sections 30230 and 30231 in terms of its potential impacts on marine resources and water quality. The project is also consistent with Section 30233, as conditioned to avoid fill as presented to the Commission and to take measures to avoid unanticipated wetland fill.

As conditioned, the Commission finds the proposed stormwater system, and low-maintenance landscaping plans, shall serve to minimize impacts associated with stormwater and non-stormwater runoff from the proposed development, in a manner consistent with the water and marine resource policies of the Coastal Act.

## **E. PUBLIC SHORELINE ACCESS**

The Coastal Act requires the Commission to protect shoreline access. Culver Boulevard is a major coastal access route in a network of heavily traveled roads. It is already heavily traveled during peak hours. Culver Boulevard was first constructed in the late 1920's. It extends from Playa del Rey to the intersection of Venice, Robertson, and Exposition Boulevards, following the route of a railway line that once served the beach cities. Culver Boulevard crosses Lincoln Boulevard on a bridge and only one connection from Culver Boulevard to Lincoln is possible: travelers eastbound on Culver Boulevard from the beach can now use a ramp to transition to northbound Lincoln Boulevard. It is not possible to turn from Lincoln Boulevard to Culver in either direction, or turn off westbound Culver Boulevard to Lincoln Boulevard.

The purpose of this project is to divert traffic originating in Playa Vista Phase One from Lincoln and Jefferson Boulevards by providing an alternate route from Area D Playa Vista to the 405 Freeway via Route 90. In this way, it is expected to reduce Playa Vista Phase I traffic impacts on one of the more important coastal access routes in Los Angeles, Lincoln Boulevard (Route 1). The eastbound Culver Boulevard/Route 90 ramps are already heavily used, performing at Level of Service (LOS) D and E during the evening peak hour. Additional capacity is needed on these ramps to accommodate Playa Vista Phase I and to reduce impacts on commuters from South Bay communities who use Culver Boulevard to access the 405 Freeway. The new loop ramps will provide a connection from westbound Culver Boulevard to Lincoln and from there to the South Bay, Marina del Rey, Venice Beach or Santa Monica. The project will make it possible to reach Area C via Lincoln Boulevard, which is now not possible (Exhibits 3 and 5).

Section 30210 of the Coastal Act requires maximum access and recreational opportunities to be provided.

Section 30210.

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30252 requires that new development be sited and designed to reduce traffic impacts and to improve and protect access to the coast:

Section 30252.

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

This road widening is only one of the many road widening and other traffic mitigation measures that the City has required Playa Vista Phase One to provide. The Phase I EIR requires many automobile and non-automobile traffic mitigation measures (Exhibits 4 and 18). Traffic calculations for the entire project predict that the location of commercial, business and residential uses in the same complex, combined with the provisions of internal jitneys, will reduce the number of trips generated by the project by as much as 25% (when the project is built out). The project also includes measures to improve mass transit serving the project, although traffic planners indicate that no more than 2% of trips will occur on mass transit. The non-automobile traffic mitigation measures include alteration of traffic signals on Lincoln Boulevard to allow “smart” signals that will increase speed of busses and internal jitneys. Despite the careful planning, Playa Vista Phase I will have major impacts on the street system because it is a big project that will generate many trips.

The applicant's traffic engineers predict that 98% of trips from Phase I will be by automobile. Because most employees and residents of Phase I will make most trips in private cars, the project traffic mitigation measures must include widening streets and intersection improvements in a wide area surrounding the project. The purpose of the street widening and ramps proposed in this project is to allow private automobiles to leave the Playa Vista Phase I and reach the freeway system without impacting Lincoln Boulevard, which is one of the most heavily traveled streets in the City. This and other improvements would divert traffic from both Lincoln and Jefferson Boulevards enabling commuters and residents to reach the Marina Freeway without entering Lincoln Boulevard.

The applicant asserts that the purpose of the present project is to reduce the impact of Playa Vista Phase One on coastal access routes, including Lincoln Boulevard and improve public access to Area C. The road widening proposed in this application will reduce impacts on beach access routes, and make access to Area C possible from communities to the north and the south. The improvement of access and the mitigation of impacts to access attributable to an approved project that is located outside the coastal zone are consistent with the public access policies of the Coastal Act. Increased traffic on Lincoln Boulevard would have adverse impacts on beach access and public recreation and the proposal subject to this application will address and mitigate, in part, such impacts.

## **F. RECREATION.**

The Coastal Act provides for protection of oceanfront land that is suitable for recreation and for recreation support.

### Section 30220

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

### Section 30223

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

The Controller has initiated a process that could lead to the State retaining Area C for public park purposes. The investigation is in its initial stage only. No funds have been allocated to create the park, and no legislative authorization to convert the land is yet approved. While no final decision has been made concerning the disposition of the property, the Commission can consider the compatibility of a 74-foot, three-lane roadway with a park. The Commission's ability to deny a project based on future use of the area as a park is limited by Section 30604(e), which states:

(e) No coastal development permit may be denied under this division on the grounds that a public agency is planning or contemplating to acquire the property on, or property adjacent to the property on, which the proposed development is to be located, unless the public agency has been specifically authorized to acquire the property and there are funds available, or funds which could reasonably be expected to be made available within one year, for the acquisition. If a permit has been denied for that reason and the property has not been acquired by a public agency within a reasonable period of time, a permit may not be denied for the development on grounds that the property, or adjacent property, is to be acquired by a public agency when the application for such a development is resubmitted.

The Commission notes that the 1990 easement does not allow the underlying landowner or its successor to object to the improvement. The Commission can, however consider methods to mitigate impacts on adjacent landowners and occupants, including possible parks.

Presently, the road is two lanes wide and carries significant commuter traffic. It carries 2,000 cars per hour at rush hour, according to Jay Kim, Senior Transportation Engineer, with the City of Los Angeles. It is hazardous to cross during morning or evening rush hours. Staff consulted with representatives of State Parks regarding their experience with major roads in parks. Many State Parks, such as California's north coast parks include major highways. In many ways, roads are difficult to manage in parks. This is because roads can cut off corners of a park, cut off habitat and can be a source of noise, reducing the quality of the recreational experience. They can be hazardous, and they can be barriers. An unrelieved expanse of asphalt is not attractive in an area that is supposed to represent and interpret California's natural heritage. The Department of Parks and Recreation is developing a plan to construct a park in the Baldwin Hills, which is crossed by two heavily traveled roads, La Cienega and La Brea Boulevards. As is the case with this road, there is little option to re-route the roads to a different location, because the roads are long established links in the transportation grid.

Although there are impacts, roads are necessary to provide access. Without the planned ramps, there is very limited access to this parcel. Few visitors, even in cities, go to parks on a bus. Roads can be used for parking and can separate active recreation areas and areas where human traffic should be limited. They can provide views of a park and retained natural open space.

The City of Santa Monica has recently adopted an open space plan that suggests methods to mitigate the visual and noise impacts of its roads and highways. One of the prime techniques suggested is the use of extensive planting. This includes street trees, landscaped median strips; jogging trails integrated with the roads, and the installation of a "freeway forest".

The simplest solution to soften the visual impact of the road would be to install a sidewalk or jogging trail where it can be safely accommodated and a vegetated strip beside the road.

The applicant's traffic engineer and the City Department of Transportation oppose on-street parking. A seventy-two foot roadway can accommodate on-street parking, the present roadway cannot, but this road was not designed with adequate capacity to provide on-street parking. Permission from the landowner is necessary before parking lots or trails elsewhere on the parcel can be constructed. For this reason, all public access improvements are part of the planned roadway and are located on the roadway within the scope of the initially anticipated Culver Boulevard roadway improvements. Vegetation can soften the visual impacts of a road and a vegetated strip is also required adjacent to this road and to recently widened portions of Lincoln Boulevard.

Parking. The current road does not have a paved shoulder and cannot provide any safe parking. One way that roads serve parks is to provide parking and entry to the park. A relatively quick and inexpensive way to provide public access support is to designate roadside areas to provide weekend parking. There is currently a bicycle path on the flood control right-of-way on Ballona Creek, adjacent to Area C. There is now no parking in Area C to serve this bike path and no real way to get to the bike path from the roads in the area.

Vegetated strip. There are several constraints on vegetation. Typical street trees are not consistent with the native vegetation that is found in this area, which is dominated by coastal sage scrub and dune plants. If this area were restored as habitat, possibly wetland, plants consistent with restoration would be necessary. However, one obstacle to restoration is the presence and the persistence of introduced grasses and invasive weeds that colonized the area after the fill was placed in the late 1950's and early 1960's. The other constraint is the quality of the soils, which are sandy dredge spoils, which may need significant alteration to support coastal sage scrub or wetland plants. If a park is developed, a long planning process will be necessary to determine the revegetation plans and the ultimate mix of activities. A landscape plan that would be compatible with restoration of Area C as a park or with future use for other purposes would include a coastal sage scrub buffer zone between the road and the rest of the area. Taller varieties of coastal sage scrub can mask the road from the other areas. Even a three foot high bush is higher than many cars, and will achieve some reduction in the visual impact of the road. In response to comments from the applicant regarding a need for clarification of condition language, the Commission adopted several minor changes recommended in the staff addendum. In addition, the Commission adopted changes recommended by the applicant in response to comments for the friends of Ballona wetlands regarding identification of invasive plants and eradication of invasive plants.

Jogging or bicycle trail. The applicant's plan for this area shows jogging trails and bike paths along several of the future streets in Area C, but not along Culver Boulevard. Instead the bike paths were to connect to the Ballona Creek path on the south property

line and over a new bridge connecting through Area D and eventually with Jefferson Boulevard, which is popular with recreational cyclists. The LUP provides for bicycle and jogging trails. More generally it states:

2b.2 As defined by the Coastal Act and specified in the specific design guidelines for each parcel in the local implementation program, new development shall provide additional recreational opportunities, including trails, bikeways, (additions and/or extensions of existing bike paths), open space/park areas and viewing areas as appropriate. Adequate support facilities (bike storage lockers, drinking fountains, etc.) shall also be provided.

Policy 3 refers mostly to Area B but also describes a trail along Culver Boulevard linking with the bike trail along the flood control channel in Area C. Playa Vista's eventual plans included a network of jogging trails. Several were planned for Area C, although none are designated along Culver Boulevard, which was identified as a major road. Currently, there is a jogging trail in the Culver median strip in Culver City and in Los Angeles, although just north of the Route 90 interchange, Culver Boulevard narrows and in this area, there is only a sidewalk. If it were possible to coordinate with Caltrans during consideration of their planned improvement to make it possible to route a trail under Route 90, a path in Area C could connect with existing trails. Such a trail would provide non-invasive recreational use pending more detailed park planning. An interim soft-footed trail along the south side of Culver Boulevard could be installed as part of this permit. If eventual plans show a different route, removal or relocation of such a trail could be easily accomplished.

Ultimate approval of either the applicant's final plan or a plan to develop the area as a park will take a number of years. The Commission finds that, as conditioned, to provide a sidewalk, and to landscape the road side with vegetation that can shelter and buffer the rest of the Area C from the noise and visual impact of the road on the park, this project will have minimal additional impact on any future park, given that the road and its traffic already exist. As conditioned, the project is consistent with Sections 30220, 30223, and 30604 of the Coastal Act. It provides additional recreational support to mitigate the impact of its increased traffic, and it does not commit the area to urban development.

## **G. HAZARDS.**

The Coastal Act requires that the Commission examine development in terms of its effects on human safety and the safety of the development itself.

Section 30253 of the Coastal Act states:

### Section 30253.

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.
- (3) Be consistent with requirements imposed by an air pollution control district or the State Air Resources Control Board as to each particular development. ...

This development is in an area that faces a number of risks:

Flooding. Historically, this area was subject to flooding. In the mid-thirties the US Army Corps of Engineers channelized Ballona Creek, which reduced flooding. However all flood control channels were designed on a model of the most likely storm and on level of runoff that was expected at the time the system was designed. With the increase of impervious surfaces in Los Angeles, some flood control facilities reach their capacity more often than in the past. According the Los Angeles County Flood Control District planners this facility was sized to accommodate the 1934 storm which is the equivalent of a hundred year storm; the recent information about the size of Los Angeles area storms indicates that many facilities designed for that storm may be over sized.

Earthquake. Because of high ground water levels and the presence of unconsolidated sediment, the area is subject to liquefaction. The certified LUP requires calculations of very high (0.5g) levels of bedrock acceleration prior to construction due to this condition. In the first phase EIR, it is estimated that after compression and dewatering, only the top four to six inches could liquefy in the event of a local severe earthquake. While this is not a significant amount for a road, it is significant for buildings. All new buildings will require special foundations as have been installed in the newer buildings along Lincoln Boulevard. Reports by ETI (April 17,2000) to the City indicated a possibility of a fault east of and parallel to Lincoln Boulevard have caused great concern. Further studies by the project geologists, and by consultants employed by the City Legislative Analyst have indicated that there is no evidence that such a fault exists. (See Substantive File Document Numbers 16, and 19)

Methane. The City is still debating the type and amounts of methane mitigation to require in new buildings in Playa Vista. Oil and natural gas deposits release gas through the soils in various concentrations. In Area D some soil gas has been measured in heavy enough concentrations to require "mitigation": foundation membranes, venting devices and the like. The Department of Building and Safety has adopted procedures and standards for reviewing development proposals in areas in which concentrations of soil gas have been measured: City of Los Angeles Department of Building and Safety, Memorandum of General Distribution, #92: Methane Potential Hazard Zones, March 19, 1991. To address neighboring Area D, the City Council established a committee, chaired by the City

Legislative Analyst to study whether the presence of methane in this area could or should change the City's decision to guarantee Mello/Roos road improvement bonds for the project. The bonds would be obligations of the future owners of this project. (Exhibit 13)

The most thorough study of soil gas emissions, the Jones ETI study, was done for adjacent Area D. The survey showed that concentrations in Area D were high enough to raise concerns about the safety of enclosed structures. The applicant has provided geology reports that also conclude that the road will be a safe structure. The soil gas survey prepared on behalf of the applicant for Areas A and C showed strikingly lower levels of concentrations of methane gas than the survey done for Area D. The City Department of Building and Safety has now approved that survey. (Exhibits 21, 22, and 23.)

Neither the City of Los Angeles Department of Public Works nor the project geologist found that such concerns applied to a road, a structure that is not enclosed but is placed on the ground surface. As noted above, the City Department of Public Works states that the City has not experienced problems associated with roads that have been located in high soil gas areas. After careful examinations of technical reports, including the methane gas surveys, the Commission's staff geologist has found no evidence that soil gas represents a hazard to the safety of the proposed road or the travelers on it. The staff geologist reviewed the Camp Dresser and McKee 2000, "Soil gas sampling and analysis for portions of Playa Vista Areas A and C near Culver Boulevard Widening Project" report cited above and concluded:

" Although the sample spacing was too coarse to adequately delineate an anomaly, it was appropriate for the detection of an anomaly sufficient to pose a hazard to the proposed development.

The report indicates that soil methane concentrations encountered range from 0.48 to 5.43 ppmv<sup>5</sup>. For reference, the concentration of methane in the atmosphere is currently about 1.75 ppmv, and the lower explosive limit of methane is 50,000 ppmv; thus the values reported in the referenced document represents essentially background levels. ... Accordingly, it appears that no significant methane seeps occur in the area investigated.

Further, methane would only be able to attain dangerous levels if it were allowed to accumulate in an enclosed space. No such enclosed space exists beneath a roadbed. ... Therefore, it is my opinion that no explosion hazard exists in association with the widening of Culver Boulevard between Lincoln Boulevard and the Marina Expressway, nor will the construction of a ramp between Culver and Lincoln Boulevards create such a hazard." (Exhibit 24)

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<sup>5</sup> (Parts per million/volume)

The Commission finds that, as proposed, the project is consistent with Section 30253 and raises no issues of hazard to life and property. Section 30253 also requires conformity with the standards of the air quality district. The air quality district does not regulate methane. The increased traffic with associated increase in the discharge of more pollutants, is a function of the Phase I development and not this road. This road itself will not contribute to air quality problems.

#### **H. LAND RESOURCES/ENVIRONMENTALLY SENSITIVE HABITAT**

Section 30240 requires that environmentally sensitive habitat areas, and areas adjacent to parks shall be protected:

##### **Section 30240**

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The Coastal Act requires the protection of areas of environmentally sensitive habitat and of areas adjacent to them. In this case, the most important habitat is found in the small patches of wetlands found on the site. One of these, as described above, is located adjacent to the fill slope of the present loop ramp, in a small depression dominated by mulefat. Other areas have been found north of Culver Boulevard, where there is 2.5 acres of wetland, mostly in the "Marina Drain", which connects this area to drainages to the north and to the Marina del Rey. Most of the area is disturbed, and covered with introduced weeds and grasses. Some coastal sage scrub plants occur.

However, the Playa Vista project biological consultant, Dr. Edith Read reports that in October 1995, visiting naturalists observed a population of 30 rare plants, which she identified as the southern tarplant (formerly identified as *Hemizonia australis* but now called *Centromadia parryi* ssp *australis*), on the adjacent escarpment on Area C. The southern tarplant, *Centromadia parryi* ssp *australis* is on list 1b of the California Native Plant Society. Southern Tarplants, according to Dr. Read, favor clay soil depressions that are relatively free of weeds. Dr. Read's initial report showed a very generalized area for the tarplant, which could have indicated overlap between the archaeological site and the area in which tarplant have been observed. Subsequent more detailed map on a larger scale showed that the two areas are at different elevations and are significantly offset. However, the Commission requires that the applicant fence the potential tarplant area with visible

hazard fencing and control trucks and staging so that no damage can occur during the archaeological treatment.

This plant is difficult to track because it blooms only a short period each year, and not every year. When it is not blooming, its small spring sprouts or dried leaves and stems are indistinguishable from the leaves and stems of other seasonal annuals. This plant has been mapped in two locations on Area C. Both of the locations are at some distance from this recovery excavation. However to assure that this plant is not disturbed the Commission requires that a biological monitor survey the site prior to the disturbing any vegetation. If the plant is found, the work shall not proceed. A report shall be filed in the Commission office prior to issuance of the permit and again prior to the start of work.

Like all extensive undeveloped sites near significant habitat, this site is used by a number of bird species both rare and common for nesting and feeding. Therefore the Commission requires that the biological monitor also survey for nesting birds and that no work take place in the immediate area of such birds until the hatchlings fledge.

Finally, the Commission notes that this site is adjacent to a Los Angeles County Significant Ecological Area number 29, Ballona wetlands. The SEA and most of the sensitive species, with the exception of the southern tar plant, such as Lewis' evening primrose are located on the north side of Culver Boulevard, the road widening and this archaeological recovery will be located on the south side of Culver Boulevard. While much off the site is no longer a wetland, it is only a few hundred yards from the creek and the present wetlands. The wetlands and the adjacent creeks and lagoons provide food for shore birds and seabirds, including the endangered Least tern and California Brown Pelican. Pelicans have been observed on the edges of the site, but not in this location. Instead the pelicans prefer the creek for feeding, and docks in the nearby Marina del Rey for loafing. The Least tern feeds in Ballona Creek and nests on nearby beaches. Belding's Savannah sparrows have been observed in Area C near patches of pickleweed located on the (north) side of Culver Boulevard, although no one has confirmed that they have nested there in at least twenty years.

The project will displace 5 acres of forbs and other cover, and also cause indirect noise impacts the habitat of the area, which is stressed. The applicant proposes to use native vegetation on the extended biofiltration basin and on roadsides. However, the Commission cannot find that these areas will provide adequate vegetative cover for the displaced birds and other animals unless:

- 1) The vegetation employed will support native birds and insects, which involves using native plants,
- 2) The vegetative cover in areas that have been denuded by road widening is replaced; and

3) There is an agreement acceptable to the City that this roadside landscaping will be part of the project landscaping and maintained for the life of the road approved in this project.

The applicant and the City have agreed on an enforceable method to maintain Phase One open space. Maintenance involves both physical maintenance, such as replacing failed plants as required in Special Conditions 1 and 2 of the permit and the identification of a successor in interest that can agree to maintain the area. The City of Los Angeles has required that the applicant and its successor take this responsibility for long-term maintenance by means of bonds and assessment districts payable by successors in the served areas.

Finally the project will cause a lot of clearance in a short time. Unless the applicant aggressively removes invasive introduced plants, these plants will squeeze out what upland habitat and native plants remain on the site. The habitat value of the area would be important to preserve if the area became a park. Therefore the Commission requires that the applicant identify an area in which it can remove invasive plants. The Commission further requires that the applicant monitor all its plantings to be sure that non-natives that force out native plants do not displace the rare plants that are found there, the southern tarplant and Lewis' evening primrose and other habitat.

In response to comments from the Friends of Ballona wetlands, the applicant suggested several refinements to the methods of construction and the identification of invasive plants, and a requirement that any revegetation plan include an analysis of the benefits of the selected landscaping materials on the native wildlife species that may utilize this vegetation. In order to provide more water for wetland plant in the extended biofiltration basin the applicant requested that the Commission eliminate the recommendation that the biofiltration basin provide a drawdown time of no less than 40 hours. The Commission concurred with this request. The Commission at the request of the applicant removed all reference to the introduction of animals for pest control. The applicant based its request on a comment by the Friends of Ballona that it is very risky, biologically, to introduce animals into a habitat area that are not already present because it can upset the current balance of the ecosystem. The Commission also changed Special Condition 16 to require that in any area in which invasive plants are removed the applicant replant the area with native plants common in the Ballona wetland area because the applicant and the Friends state that invasive plants would reinvade unless natives were immediately replanted in their place. These changes were refinement to the original conditions intended to reduce the project's disturbance to the native habitat and did not change the intended effect of the conditions, which is to minimize clearance to those areas necessary to construction, and in any disturbed area to revegetate with appropriate plants common in this Ballona Wetlands area.

As conditioned, to avoid the southern tarplant to avoid disturbance of nesting birds, to remove non-natives attracted by the grading and to avoid siltation as described in the

preceding section, this project is consistent with the requirements of Sections 30240 and 30251 of the Coastal Act.

## **I. CULTURAL RESOURCES**

Section 30244 of the Coastal Act states:

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

Both the Coastal Act and the City's certified Land Use Plan require mitigation measures for development areas that contain significant cultural resources. In 1991, the Corps, the Advisory Council on Historic Preservation and the California State Historic Preservation Officer, with the approval of the Tongva (Gabrieliño) tribal representatives, authorized a research and recovery project for all the identified or suspected archaeological sites in the Playa Vista project area. In 1998, the Commission approved Permit 5-98-164 that authorized preliminary exploration of the identified sites in the Coastal Zone portion of the Playa Vista Property. In approving Permit 5-98-164, the Commission found:

The proposed Research Design also includes detailed field and laboratory methods.

The proposed Research Design conforms to the Programmatic Agreement among the Corps of Engineers, the Advisory Council on Historic Preservation, and the State Office of Historic Preservation. In addition, the Programmatic Agreement has been reviewed and signed by Vera Rocha, Tribal Chairman of the Coastal Gabrieliños, Manuel Rocha, spiritual leader, and Cindi Alvitre, Chairperson Tribal Council.

To assure that the proposed project remains sensitive to the concerns of the affected Native American groups, a Native American monitor should be present at the site during all excavation activities to monitor the work. The monitor should meet the qualifications set forth in the NAHC's guidelines. As a condition of approval, an on-site Native American monitor that meets the qualifications of the NAHC's guidelines shall be required during excavation activities. Therefore, as conditioned, the proposed project is consistent with Section 30244 of the Coastal Act, which requires reasonable mitigation measures to be provided to offset impacts to archaeological resources.

According to the project's archaeologist, once a site is determined to contain significant cultural resources, a Treatment Plan (Mitigation Plan) will be prepared and reviewed by the appropriate Federal and State reviewing agencies. The Treatment Plan will outline actions to be implemented to mitigate impacts to the cultural resources found at the site(s). To determine whether the Treatment Plan is

consistent with the proposed permit or if an amendment to this permit is required, the applicant shall submit a copy of the Treatment Plan to the Commission. The Executive Director, after review of the Treatment Plan, will determine if an amendment will be required. The Executive Director will require an amendment if there is significant additional excavation required or there is a significant change in area of disturbance or change in the type of excavation procedures.

In the event that grave goods are discovered, the Research Design provides that upon the discovery of human remains, the Los Angeles County Coroner's Office will be notified in compliance with state law, and they in turn will request the Native American Heritage Commission to determine the cultural affiliation.

The Commission approved the exploration but required the applicant to return for an amendment or for a new permit if recovery was necessary. Two archaeological sites identified for exploration in 5-98-164 are located within the footprints of the proposed road improvements. One of the sites proved to contain cultural deposits. The Commission is considering an amendment to 5-98-164A at the present hearing, November 2001. The City and Corps conditions require that this present road project should not go forward in the vicinity of the archaeological recovery project until the parties, including the Corps, the Native Americans and SHPO agree that recovery is complete and no further exploration is necessary. At its November 16, 2001 hearing the Commission approved this application and the related permit for archaeological recovery.

The Commission finds, therefore, that, as conditioned, the proposed project is consistent with Section 30244 of the Coastal Act. The Commission notes that any additional work not described under the Commission's previously issued permit 5-98-164 or the new amendment 5-98-164A, if approved, shall require review by the Executive Director to determine if an amendment or a new permit would be required.

## **J. LOCAL COASTAL PROGRAM**

Coastal Act Section 30600 states in part

(a) Prior to certification of the Local Coastal Program, a Coastal Development Permit shall be issued if the issuing agency, or the Commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3.

On November 26, 1986, the Commission certified, with suggested modifications, the Land Use Plan portion of the City of Los Angeles, Playa Vista segment, Local Coastal Program. The certified LUP contains policies to guide the types, locations and intensity of future

development in the Playa Vista area. The LUP designated most of Playa Vista for intense urban development, reserving 163 acres as wetland and additional area for other habitat purposes. The Land Use Plan portion included all roads proposed in this project although the proposed roads do not include all of the widening envisioned in the LUP, but only widening appropriate to the first stage of development. When the Commission certified the LUP for this area in 1986, this road was included as an eight-lane connector to the Marina Freeway. There is one other difference; the project does not bridge Lincoln Boulevard over Culver Boulevard but at this time retains the existing circa 1938 bridge over Lincoln.

This particular project is a required mitigation measure for the first phase of the Playa Vista development, but is also a response on the part to Caltrans and other transportation agencies to the degree of crowding that drivers on Lincoln now face, even before completion of Playa Vista's First Phase.

The Commission initially reviewed road widening plans and future traffic volumes for the Marina del Rey/Ballona area when it certified the Marina del Rey/Ballona Land Use Plan in 1984. The 1984 plan anticipated intense development in the sub-region and required major road improvements to accommodate it. Since then, the Commission has increased number of the peak hour trips that may be generated by new development in Marina del Rey from about 2400 peak hour trips to about 2700 peak hour trips. Traffic generation expected from Playa Vista has remained about the same, although Playa Capital has now proposed a different mix of uses than the Commission reviewed in 1984, when it certified the Marina del Rey/Ballona Land Use Plan.

Development approved in the Marina del Rey/Ballona Land Use Plan (exhibit) for both the Marina del Rey and for what is now Playa Vista included:

USE	Hotel rooms	Res-- taur- ant seats	Boat slips	Commer- cial sq. ft.	Marine Commer- -cial sq. ft.	Resi- dential units	Office sq. ft.
Marina del Rey	1,800	462	20 acres	14,000	"varies"	1,500	200,000
Playa vista Area A	1,800		26 acres	200,000	0	1,226	
Playa vista Area B				70,000	0	2,333	
Playa vista Area C				150,000	0	2,032	900,000
TOTAL	3,600	462	46 acres	424,000		7,091	1,100,000

Before approving this level of development Los Angeles County required the applicant with the biggest project, Summa Corporation, to prepare an evaluation of the traffic impacts of the development and a list of road widening projects that would accommodate it. In 1992 Los Angeles County accepted a study prepared by Barton Aschman Assoc. for Summa Corporation to address its proposed development. The study took into account development in “areas peripheral to the LCP zone “ “inasmuch as this development will have a significant impact on LCP area traffic. The study took into account not only proposals in the Marina del Rey, and Summa’s proposals but also it addressed traffic impacts expected from development in the “sub-area.” This development included (1) a major project at the 405, Centinela and Sepulveda Boulevards, (2) 4 million square feet of Airport related commercial and industrial development, (3) 3.6 million square feet of commercial and industrial development in Culver City, and (4) “on the vacant property east of Lincoln and south of Ballona Creek, 3,200 dwelling units, 600 hotel rooms, 3 million square feet of office space and 400,000 square feet of commercial uses” (Playa Vista Area D).

The traffic improvements approved in the Marina del Rey/Ballona plan to accommodate that development included<sup>6</sup> (Exhibits):

- 1) Widening Lincoln Boulevard to eight lanes;
- 2) Constructing a four-way loop ramp at Culver and Lincoln Boulevards, lower Culver Boulevard, and bridge Lincoln Boulevard over it;
- 3) Widening Culver Boulevard to six lanes between Lincoln Boulevard and Vista del Mar; and to eight lanes between Lincoln Boulevard and the marina freeway, realigning Culver Boulevard in Area B;
- 4) Realigning the Culver Boulevard interchange with Jefferson Boulevard.
- 5) Extending Admiralty Way to the realigned Culver Boulevard;
- 6) Widening Jefferson Boulevard to six lanes;
- 7) Extending the Marina Freeway just west of Culver Boulevard with a grade-separated interchange at their intersection;
- 8) Extending Bay Street north of the Ballona Channel;
- 9) Building the “Marina Bypass” (a four-lane high-speed road along the Pacific Railroad right of way between Lincoln and Washington Boulevards;
- 10) Extending Falmouth as a four-lane road to Culver and Jefferson Boulevards.

Many of the proposals had been considered by transportation planning agencies for many years. The Barton Aschman report and the submitted LUP cite County and City transportation planners in explaining the choices.<sup>7</sup>

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<sup>6</sup> Presented in a different order with different numbers in the Land Use Plan. See Exhibit)

<sup>7</sup> Two of the improvements were since removed from the plan. Falmouth Avenue was removed as a result of the Friends’ of Ballona lawsuit because it established a new road in the wetland. The City of Los Angeles withdrew its approval of the Marina Bypass, an unpopular improvement, and approved housing on the proposed right-of-way.

When City of Los Angeles annexed Areas B and C of the land subject to that plan, the City incorporated most of the traffic improvements into the Playa Vista Land Use Plan that the Commission certified in 1986.<sup>8</sup> The improvements included the extension of Admiralty Way to Culver Boulevard, widening Lincoln Boulevard to eight lanes, widening Culver and Jefferson Boulevards, and extending the Marina Freeway. With respect to Lincoln Boulevard and associated transportation improvements the certified Playa Vista LUP states:

*Page 43, Policy 14. At the Culver and Lincoln boulevards interchange, Culver Boulevard should be lowered to an at-grade level with Lincoln Boulevard bridged over it; and the following ramps shall be provided:*

- (a) A loop ramp in the southeast quadrant accommodating eastbound Culver Boulevard to north bound Lincoln Boulevard flow.*
- (b) A straight ramp in the southeast quadrant accommodating north bound Lincoln to eastbound Culver Boulevard flow.*
- (c) A loop ramp in the northeast quadrant accommodating westbound Culver to south bound Lincoln Boulevard flow (for reference only, located in Area A).*
- (d) A straight ramp in the northwest quadrant accommodating southbound Lincoln to westbound Culver Boulevard flow. (Outside City jurisdiction located in Los Angeles County.)*

*Page 43 policy 15: Widen Lincoln Boulevard to provide an eight-lane facility between Hughes Way<sup>9</sup> and Route 90.*

*Page 43 policy 16: Jefferson Boulevard will be developed as a basic six-lane facility with an additional eastbound lane between Lincoln Boulevard and Centinela Avenue. (Part of this is outside the coastal zone.)*

*Page 44, policy 17: Reserve right-of-way for a transit way linkage in the Lincoln Boulevard corridor.*

*Page 44 policy 18: Extend the Marina Freeway, just east of Culver Boulevard, with a grade-separated interchange at their intersection.*

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<sup>8</sup> The County did not adopt them, adopting only improvements within the Marina del Rey proper and a schedule of improvements that linked stages of development of Area A, which it had retained, to improvements by other Playa Vista project areas. When the County submitted a separate implementation program applying only to the Marina del Rey proper, it included only improvements to streets within the Marina was part of that plan. The County deferred policies addressing widening major streets outside the Marina such as rerouting Culver Boulevard and widening Lincoln as part of the future LCP for Area A, which was then still owned by the owners of Playa Vista.

<sup>9</sup> Hughes Way is now identified as Loyola Marymount University (LMU) Drive.

*Page 44, policy 19: Extend Bay Street, north of the Ballona Channel as a basic four-lane facility, construct a bridge across the Channel.*

When the City of Los Angeles reviewed the First Phase Playa Vista EIR in the early 1990's, the City based its traffic analysis on the Barton Aschman report and on an addendum that it had requested. The City required the first phase of many of these identified "road improvements" as mitigation measures, because they would increase road capacity. All development authorized in the First Phase EIR, with the exception of the Freshwater Marsh, is located outside the coastal zone, east of Lincoln Boulevard.

Phase One, Playa Vista, which is located outside the Coastal Zone, will include the following development.

	Dwel- ling units	Retail Sq. ft.	Community serving sq. ft	Office Industrial Media center sq. ft	Open space other habitat	Wetlan ds
Phase I	3,246	35,000	120,000	2,077,050 office 1,129,900 studio	26A	26

The traffic analysis of the First Phase Playa Vista EIR describes what were then current traffic volumes in this part of Lincoln Boulevard. Traffic was already heavy in 1990.

Intersection:		1990		1997 without project		1997 with project	
		Volume/ capacity	LOS	Volume/ capacity	LOS	Volume/ capacity	LOS
Lincoln/ Manchester	a.m.	0.979	E	1.225	F	1.261	F
	p.m.	1.121	F	1.356	F	1.422	F
Lincoln Jefferson	a.m.	0.971	E	1.274	F	1.454	F
	p.m.	0.967	E	1.334	F	1.547	F
Lincoln/ Maxella	a.m.	0.625	B	0.873	D	0.931	E
	p.m.	0.818	D	1.202	F	1.270	F
Lincoln/ Route 90	a.m.	0.763	C	0.975	E	1.044	F
	p.m.	0.804	D	1.151	F	1.207	F
Lincoln/ Washington	a.m.	0.977	E	1.364	F	1.415	F
	p.m.	1.105	F	1.534	F	1.512	F
Source: Playa Vista Draft First Phase EIR, Pages V.L.1-42 and V.L.-44: Table V.L-I-6							

The EIR anticipated that by 1997, even without the project, traffic levels would exceed level F (the most congested level of service, essentially stop and go) at several intersections. With the now approved project, the EIR anticipated that the level of service

would be significantly worse (third column). When it adopted the final EIR mitigation measures, the City of Los Angeles required the widening that is subject to the present application. In addition to ATSAC (speeding up traffic by manipulating traffic light intervals,) the City required the applicant to provide the following improvements to Lincoln Boulevard in the coastal zone<sup>10</sup>:

40. Lincoln and Mindanao (restriping and removal of islands, see Exhibit.)  
42 Lincoln and Teale St.

- (a) . Dedicate property and widen Lincoln Boulevard along the project frontage (both east and west sides from a point approximately 800 feet southerly of the proposed realigned Teale Street centerline to a point approximately 40 feet southerly of the Jefferson Boulevard centerline to Super Major highway standards with a 114 foot road way within a 134-foot right-of-way. However the applicant has offered to provide a 126-foot roadway within a 152-foot right of way. Relocate and modify traffic signal equipment as required. Lincoln Boulevard is under the jurisdiction of Caltrans and any improvements must be coordinated with and approved by Caltrans.
- (b) Dedicate, construct and realign Teale Street east of Lincoln Boulevard to provide an 84-foot roadway within a 108 foot right of way in order to provide two left turn-only lanes, one right turn-only lane and one bike lane in the westbound direction and three through lane and one bike lane in the eastbound direction.
- (c) Restripe Lincoln Boulevard to provide three through lanes and one shared through/right turn lane in the northbound direction and one left-turn only lane and four through lanes in the southbound direction.

After certification of the EIR, the applicant approached Caltrans regarding three improvements to Caltrans facilities required in the EIR mitigation measures: widening Lincoln boulevard, increasing the capacity of Jefferson and the Jefferson /405 interchange, and adding high speed surface level ramps at Culver and Route 90 (Marina Freeway). Caltrans responded that they agreed that there needed to be a way to reroute traffic off Lincoln to the east to the 405 Freeway and ultimately the 10 Freeway. However the geometry of the Jefferson 405 ramps prohibited the improvements that had been suggested (the ramp is too narrow to provide a safe turn with an additional lane.) Caltrans instead advocated establishing a parallel north south route, Bay Street (now known as Playa Vista drive,) that could deliver north south traffic to Culver Boulevard; building a bridge over Culver Boulevard as the first step to a full interchange of Route 90 and Culver boulevard; increasing capacity of a north/south street outside the coastal zone (Centinela). Caltrans agreed to the Lincoln widening, noting however that (1) the intersection of Lincoln Boulevard and Washington would still be at level F and above and that there were so many demands on Lincoln from the airport and other uses that Lincoln would still be

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<sup>10</sup> All the improvements required for the project as shown in Exhibit 32.

severely crowded. Caltrans advised also that the number of bus trips along this route must be increased to reduce demands on Lincoln Boulevard from Playa Vista. (Exhibits)

In response to this communication, the City revised its mitigation measures for phase one Playa Vista in May 1993 (Exhibit 32-37). In response, the City required the implementation of more of the LUP improvements as part of Phase I, adding the Culver Lincoln loop ramp and adding Bay Street to Culver Boulevard as an alternative north-south route to Lincoln to the phase one mitigation measures. The City also adopted strict transportation demand management measures. The required road projects were to be staged along with six identified stages of construction (exhibits). Lincoln Boulevard improved to eight lanes is one of the first projects that the EIR requires to be completed. This project will not provide all the widening that the Phase I EIR requires (although phase I measures allow combination of turn lanes with travel lanes. It does not provide extra buses, and it does not required four travel lanes all the way to from Teale Street to Fiji Way, because it does not provide 8 lanes. The remaining widening north of Jefferson would take place along with the bridge reconstruction that Caltrans plans to propose next year.

The Coastal Act provides that development must not overload coastal access routes. The studies by Barton Aschman did consider two ways to reach this goal: an alternative, lower level of development, with less road widening and an alternative higher level of development with more road widening. In 1983, Los Angeles County submitted an LUP, which the Commission certified in 1984, that showed intense development accompanied with an integrated system of road widening. The integrated system of road widening was designed to accommodate development that was proposed east of the coastal zone. According to the report the road widening would accommodate the proposed development and the traffic from related projects.

In approving the LUP in 1984 the Commission required a mass transit in addition to the road widening. The Commission modified the policy in its 1986 actions on the City and County versions of the same LUP to require only a mass transit right-of-way (a lane) and internal jitneys. In addition in its 1986 actions the Commission required that the City and the County plan their transportation improvements together, a policy that the Commission included and strengthened in approving additional development in the Marina del Rey in 1995.

This road is necessary to accommodate development that is already approved outside the coastal zone. The City and Caltrans determined that it is necessary to accommodate that development. However the road widening is part of a larger plan to accommodate high levels of development inside and outside the coastal zone. If these high levels in the coastal zone are changed, the full complement of roads may not be necessary. However the Commission does not now have an alternative traffic analysis that would address how to reduce the number of widening projects or the number of new roads.

This project involves less impact on resources and structures than the LUP. The Commission finds that the proposed roads are in locations identified by the certified LUP, and do not prevent development as envisioned in the plan from taking place.

The proposed development is consistent with the policies of the certified LUP. As proposed, the project will not adversely impact coastal resources or access. The Commission, therefore, finds that the proposed project will be consistent with the Chapter 3 policies of the Coastal Act and will not prejudice the ability of the City to prepare a Local Coastal Program implementation program.

#### **K. CEQA**

Section 13096 of the Commission's administrative regulations requires Commission approval of [any](#) coastal development permit application to be supported by a finding [that](#) the application, as conditioned by any conditions of approval, [is](#) consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse effects [that](#) the [project](#) may have on the environment.

[In the case, the project originally proposed](#) could have [had](#) significant adverse impacts, [but](#) the applicant has avoided [those impacts](#) by changing its project, relocating the ramps away from the wetland, and [mitigating the remaining impacts through the implementation of](#) the conditions proposed. There are no additional feasible alternatives or mitigation measures available that could substantially lessen any [remaining](#) significant adverse impact the activity may have on the environment. Therefore, the proposed project is consistent with CEQA and the policies of the Coastal Act.

## APPENDIX A

### SUBSTANTIVE FILE DOCUMENTS

1. City of LA CDP No. 95-03 (August 1995), extended (October 1997), currently expired;
2. State CDP No. 5-95-148 (January 1996), extended (October 1997), currently expired;
3. City of LA CDP No. 00-3B (subject appeal)
4. Easement Agreement By and Between U.S. Trust Company of California, N.A. and Maguire Thomas Partners—Playa Vista, a California Limited Partnership, August 1990.
5. Security agreement regarding Area C between Kenneth Cory, State Controller and Summa Corporation, 1984, with first through fourth amendments.
6. Chief Deputy Controller to US Trust Company of California, October 30, 1998 correspondence and attached irrevocable offer to dedicate.
7. California Department of Transportation (CALTRANS), Encroachment Permit 798-6MC-0618; Encroachment Permit Rider 700-6RW-2956, November 8, 2000
8. First Phase Project for Playa Vista, Final EIR SCH # 90010510) –EIR No 90200-Sub (c)(CUZ)(CUB)
9. Mitigated Negative Declaration--Playa Vista Plant Site (MND# 950240 (SUB) & Addendum to the EIR for the first Phase Project for Playa Vista --August 1995
10. Los Angeles County Marina La Ballona certified LUP, October 1984.
11. City of Los Angeles Local Coastal Program, Certified Land Use Plan for Playa Vista 1987 (Section C4);
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30. Programmatic Agreement among the US Army Corps of Engineers, Los Angeles District, the Advisory Council on Historic Preservation and the California State Historic Preservation Officer, regarding the implementation of the Playa Vista Project, 1991.
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32. Judge Lew, Federal District Court, June 1996, decision in Wetlands Action Network et al v United States Army Corps of Engineers.
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34. First Amendment to Agreement Among U.S. Trust Company of California N. A, Maguire Thomas Partners – Playa Vista Area C a California limited partnership, and Maguire Thomas Partners--Playa Vista, a California limited partnership, effective May 15, 1994.
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